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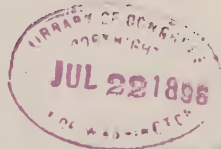
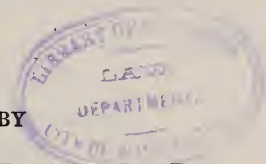
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A MANUAL  
FOR  
BOARDS OF HEALTH  
AND  
HEALTH OFFICERS.

BY

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## PREFACE.

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In presenting this manual for health boards and health officers in the State of New York, but one object has been kept in view—the putting in the hands of those officials of a short, compact guide to follow in the discharge of their duties. Literary merit has not been sought, nor has a long disquisition been written on the advantages or needs of public health work. Reiteration is frequent and purposely so, constant repetition fixing the subject on the reader's mind. The manual is not written as a legal work or as an exposition of decisions rendered by the courts on health matters. Neither is it intended as instructing in hygiene. It is simply a practical statement of the duties of health authorities and how they may be done as required by the public health law of this State. It is the result of practical experience both as a local health officer and as secretary of the State Board, and much that is said has already many times been written in answer to inquiries. It refers to legal cases where the subjects treated have been reviewed, but this is merely to show that the text is sustained by authority.

The rules and regulations, forms and circulars in the last chapter are familiar to most boards of health. Those issued by the State Board of Health are so designated. The others are suggestions for forms that may be used to advantage and which are in accordance with the provisions of the law and the modes of procedure. The publication of this manual has been asked for by many, and it is hoped it will meet with approval and be an aid to those engaged in the public health service.

LEWIS BALCH.

ALBANY, N. Y., *June*, 1893.

A MANUAL  
FOR  
BOARDS OF HEALTH  
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HEALTH OFFICERS.

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CHAPTER I.

THE STATE BOARD OF HEALTH, ITS POWERS AND DUTIES.

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2. Supervision over local boards; exceptions; specific duties.
3. To formulate method of general system of registration of vital statistics. Power to take charge of.
4. Power to examine nuisances.
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6. State buildings and grounds open to inspection. Jurisdiction over lands taken by the state for sanitary purposes.
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8. Adulteration of food and drugs.
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SECTION 1. When created. How composed.—

In 1880 the legislature created, by the enactment of

chapter 322 of the Laws of that year, a board of health for the state, giving to it certain general powers over matters of interest to life, and others relating to local boards enabling it to guide and aid them in their work of caring for the public health. The board is composed of nine members appointed under the provisions of that law and continued under the new one, known as the Public Health Law, chapter 25 of the General Laws, or chapter 661 of the Laws of 1893, which is a codification of all former legislation upon matters pertaining to health. As thus constituted, the board organizes by electing a president from its members (sec. 3, art. I of the Public Health Law), and a secretary, who shall be a person of experience in sanitary affairs, and who is the executive officer of the board. Like other boards of similar nature, it can enact by-laws for the transaction of business, appoint committees and exercise other like functions.

**§ 2. Supervision over local boards ; exceptions ; specific duty.**—It is given supervision over all local boards of health in the state, excepting those of five cities, New York, Brooklyn, Yonkers, Albany and Buffalo, these being exempt, but required by the law to report cases of small-pox, typhus and yellow fever and cholera, and the facts relating thereto, in order that the state board may duly notify other places to insure protection from contagion. (Secs. 24 and 32, art II.) The board is created for a specific object, viz., “to take cognizance of interests of life and health of the people of the state, and of all matters pertaining thereto.” To do this it has the power to inquire into the cause of disease, to investigate any locality, to summon people before it to testify under oath to what they may know of the subject being investigated, issuing subpoenas to



compel their attendance. In order to facilitate an examination, its members or employees have free entry into every place where it is thought necessary to go in pursuit of the causes of the examination, and all persons are forbid hindering such entry. The zeal of local boards in protecting their municipalities against disease may carry them too far, and a resolution or order made by them may extend beyond the limits of their municipality without intentional excess of jurisdiction, and in such case the state board can reverse or modify such order in its discretion. (Sec. 4.)

**§ 3. To formulate method of general system of registration of vital statistics. Power to take charge of.**—The general system of registration of vital statistics is given in charge of the state board. The importance and value of these records increases yearly, and every effort is made by the board to perfect their collection and registration. To this end the forms and methods of the work are formulated by the board (sec. 5), and it requires all local boards to follow such regulations as it makes on this subject and to forward every month the certificates received for the month preceding. If a local board fails in compliance with these regulations, the state board may, upon due notice of thirty days to the local board at fault, assume charge of this branch of public health service in that municipality and enforce the rules at the expense of the place, this control to last until the board is satisfied local authorities will do their duty. To the end that the system of vital statistic registration shall be uniform and effective, the board has prepared blank forms for the returns of births, deaths and marriages, which local boards procure where they choose, it being insisted upon, however, that the size of the blank and the subject-matter be the same as the sample

furnished. And the absolute necessity of this regularity is easily understood, the state board having to file and keep the original certificates. If various sizes and shapes of form were allowed the filing of nearly one hundred and fifty thousand certificates a year would be double the work than where all are the same. Certified copies of these records, by the president or secretary of the board, are made presumptive evidence of the subject-matter and are constantly sought for. The board further prescribes the methods, forms and rules necessary for the transfer of dead bodies where the burial is to take place outside of the county in which death occurred, and the transit burial permits issued under these rules are accepted by other states into which the remains may be carried. Public carriers cannot receive a body for transportation unless it be accompanied by a proper transit permit issued by the local board of health having jurisdiction where the death took place and in accordance with the form prescribed by the state board.

§ 4. **Power to examine nuisances.** — While, as will be seen further on, local boards are more particularly charged with the care of the public health in their municipalities, the state board has all the necessary powers to examine into nuisances or matters affecting life and health. (Sec. 6.) Where, however, this is done by the state board, acting as the board, any necessary measures to be taken must be by the local board under the direction of the state board, the local board having to obey all lawful directions given it by that of the state. (Sec. 25, art. II.) In addition to this and independent of local boards, the governor may direct the state board to investigate a matter of importance to health and report to him concerning it within the time mentioned in such order. In such case the board proceeds to examine

in the manner considered best to bring out all the facts necessary for full and complete understanding of the nuisance, and on which its recommendations are to be based when it reports to the governor. The board does not declare the matters to be nuisances, but reports and certifies that, in the judgment of the board, they are so, and the governor may so declare them and make an order for their abatement in accordance with the suggestions of the board, or he may make such other disposition of the case as appears to him proper. If an order from the governor issues it is to the maintainers of the nuisance directing them to abate in the manner prescribed in it, and if the parties notified fail to obey the order, the governor may direct the county officers to abate in the manner set forth, and then the cost becomes a charge upon the municipality where the nuisance is, to be recovered by the municipality by suit against the original maintainers of the nuisance. In such examinations as these, either by or without an order of the governor, the board can ask members of local boards to serve with it and aid in determining its decision, but such representatives shall not have power to vote upon that decision. The board also can employ experts for this work, or any other it may consider an expert should investigate. (Sec. 8.)

**§ 5. Water escaping from canals; power of state board over.**—Water escaping from any canal belonging to the state, and creating a nuisance by causing disease may be, upon complaint being received, examined and ordered abated by the state board without appeal either to the governor or calling upon the local health authorities. (Sec. 7.) But before such action can be taken by the board, the leaking of this water must

have caused sickness, and a physician will have to make affidavit to that fact; the affidavit setting forth the character and amount of sickness, so far as it is within his knowledge. The original complaint is the affidavits of three citizens, which show the same, as far as they may be cognizant thereof. If, upon examination by the board, the allegations are sustained, the board reports the fact to the superintendent of public works, who causes the trouble to be relieved without delay.

§ 6. **State buildings and grounds open to inspection. Jurisdiction over lands taken by the state for sanitary purposes.**—All state buildings or grounds as well as any maps or plans relating thereto, are always open to the inspection of the state board (sec. 9), and in section 10 a very important addition has been made to the law. Here power is given to the commissioners of the land office to acquire land for sanitary or quarantine purposes if such lands are certified to be necessary by the state board or the health officer of the port of New York, and over lands thus taken by the state, the state board has exclusive sanitary jurisdiction. (Sec. 4.) This relieves local boards from all responsibility if within the limits of such state property any nuisance or danger to the public health is maintained or arises from the use of the property, placing this responsibility on the state board and by implication holding it liable if by neglect the public health suffers. Experience has proved the necessity of the introduction of these provisions in the law. The duty of protecting the people from invasion of disease is one admitting of no dalliance or interference, and while local boards are properly to care for local interests, which in turn may be common to the whole state, it is but right the state, by its particular board, should care

for all matters of a sanitary nature in places where it exercises its jurisdiction.

**§ 7. Power to appoint health officer where no board is formed.**—In line with this advance in the new Public Health Law is another of equal importance. Where, from any cause whatever, the municipal corporation has failed to appoint the health authorities as provided for in article II, the state board may, in such place, exercise all the power given a local board and appoint a health officer whose salary, together with the expenses incurred by the state board, shall be paid by the municipality in question. (Sec. 11.) This power of the state board lasts only, however, as long as the municipal authorities fail in their duty under the law. As soon as they comply with its provisions, the powers of the state board cease and it takes its proper place as an advisory board to the new one created.

**§ 8. Adulteration of food and drugs.**—Under article III the state board is charged with the work of protecting the people from adulterations in food, drugs and beverages such as wine, spirits and malt liquors. The board appoints analytical chemists to make examinations (sec. 42), and also formulates rules and regulations for their guidance. These rules are to be filed in the office of the secretary of state and by him published in the Session Laws. Once in each year, the board is called on to examine the spirituous, fermented or malt liquors, causing samples to be furnished by all manufacturers, and if any are found to contain deleterious articles, the manufacturer is held as having violated the law and put an adulterated substance on the market. (Sec. 43.) Every person manufacturing or offering for sale any article of food or beverage covered by the law, shall furnish a sample to the board's collectors upon being ten-



dered the ordinary price thereof, and refusal to do so subjects the person so refusing to a penalty of \$100. (Sec. 44.) Violations of any of the provisions of this article are to be communicated to the district attorney of the county where the offense is committed and he is called upon to prosecute the offender. (Sec. 50.)

§ 9. **Tuberculosis in cattle.**— Under article IV, the board is charged with a very important work. Tuberculosis in cattle is now considered to be communicable to man, and so the board is empowered to arrange for examinations of cattle suffering from this disease. (Sec. 60.) Whenever it is found, measures may be taken to suppress it and to prevent its spread to other cattle. The board, to do this, appoints such inspectors to examine all cows in a given section as it considers necessary to carry into effect the rules and regulations made by it. (Sec. 61.) These rules at present are the following. It should be said they were formulated under the law passed in 1892, for this work, which has been incorporated in the law now under consideration :

## STATE BOARD OF HEALTH OF NEW YORK.

### RULES AND REGULATIONS FOR INSPECTORS, OWNERS OR KEEPERS, AND ALL OTHER PERSONS HAVING CHARGE OF CATTLE SUFFERING FROM TUBERCULOSIS OR OTHER INFECTIOUS AND CONTAGIOUS DISEASES.

The state board of health, in pursuance of the powers conferred on it by chapter 487 of the Laws of 1892, hereby makes and publishes the following rules and regulations for the guidance of all inspectors, or other persons employed by it in the inspection of milch cows, and other cattle, suffering from tuberculosis, or other infectious or contagious diseases, and for the guidance of

owners, keepers and all other persons having charge of cattle.

#### RULES AND REGULATIONS.

1. Inspectors or others shall use all reasonable means to discover tuberculosis or other infectious or contagious diseases in cattle, and report in writing the result of their inspections, not less than once in each month and as much oftener as may be called for by the president or secretary of the board.

2. All owners or keepers of cattle, and all persons having charge thereof, shall allow of such inspection and examination as the employees of this board shall consider necessary, upon said employee presenting his authority to so examine, and all orders made as to destruction, isolation, disinfection, or other care of cattle suffering from infectious or contagious disease, or suspected of so being affected, shall be obeyed by all owners, keepers, or other persons having charge of such cattle.

3. Should the inspectors or others employed by the state board of health find, upon examination, tuberculosis or other contagious or infectious disease existing in cattle examined by them; they are to direct such quarantine, sequestration, or other measure of protecting the public health, or other cattle from the said diseases, as may in the case then under examination be considered by them best. Should the killing of one or more cattle so affected be, in the judgment of the inspector, necessary for the protection of the public health or other cattle, the inspector, before directing such killing, shall first notify the president or secretary of the state board, reporting the reason why he considers such killing necessary, the name of the owner or owners, the place where said cattle are, and the number to be destroyed. The president or secretary shall then order

the killing, or such other measures as both or either of them may consider best.

4. All owners, keepers of cattle, or other persons having charge thereof shall, for the purpose of proper examination thereof, if requested by the inspector of the state board to do so, place the animal to be examined in stanchions, or such other place as may be provided for their restraint, for the time necessary for such examination.

5. To guard against the improper use or disposal of an animal or animals found to be, or suspected of, suffering from tuberculosis, or other contagious or infectious disease, the inspector may place on such animal or animals a lock and chain, or other device for marking said animal or animals, and all owners, keepers of cattle, or other persons having charge thereof, are cautioned against removing said lock and chain or other device, without due permission in writing from an inspector of this board. And the inspector, at the time of so marking an animal or animals, shall give in writing a notice to the owner, keeper, or person in charge, said notice to set forth the description of said animal or animals, how marked, the reason for said marking, and a warning that the removal of said animal or animals, or the removing or effacing of said markings would be in violation of the provisions of chapter 487 of the Laws of 1892. And in case any owner, keeper, or person in charge of said animal or animals shall so remove or efface said markings, or remove or otherwise dispose of said animal or animals, the inspector shall report the same to the president or secretary of the state board of health, setting forth in said report all facts pertaining to the case.



6. When an animal is, or animals are killed by the order of the president or secretary of the board, upon the report of the inspector as provided for in rule 3, the inspector or other person in the employ of the board directing the killing, shall give a written certificate to the owner, keeper, or other person in charge of the animal or animals so killed, to which he shall make affidavit, said certificate setting forth a description of the animal, owner, place, when and where killed, and for what reasons.

7. And it is further made the duty of said inspectors to give, in writing, to all owners, keepers of cattle or persons having charge thereof, or public carriers having charge of the transport of cattle, such directions and orders for the disinfection of premises, buildings, boats, railroad cars, stables and all other objects from or by which infection or contagion may take place or be conveyed, and for the proper disposition of the hides and carcasses of such animal or animals as may be killed under and in accordance with these rules and regulations, and all objects which might convey infection or contagion. And it shall be the duty of all owners, keepers of, or other persons in charge of cattle, and of public carriers having the charge of the transport thereof, to obey all such directions and orders of the inspectors for the proper disinfection of all places and objects that may contain or convey infection or contagion, or the proper disposal of all hides, carcasses or objects requiring disposal for the protection of the public health, or other cattle. And the inspector shall, in his monthly report to the president or secretary of the state board of health, set forth in full what directions or orders he has given in the carrying out of the provisions of this rule.

Whenever the board, from the reports of the inspectors, considers that some cattle should be killed to prevent spread of the disease (sec. 62), the authority to kill is forwarded the inspector as required by rule 3, and he gives to the owner a sworn certificate of the killing, which is admitted in evidence of the claim. All claims for the animals so slaughtered are brought before the board of claims, it having exclusive jurisdiction to determine the value at the time of killing and of making awards therefor. (Sec. 63.)

To refuse to obey or to violate any order of the state board relative to the suppression of tuberculosis in cattle renders the offender liable to a penalty of \$100. (Sec. 64.)

§ 10. **Glanders in horses.**—Glanders in horses is also to be guarded against by boards of health, but in this case local boards have to do the killing after examination into the case according to rules prescribed by the state board. (Sec. 62.) Horses thus destroyed are paid for by the comptroller on the certificate of the board having jurisdiction, not to exceed in any case the sum of \$50 for any one horse. (Sec. 63.) The board has published the following rules for local boards to follow in dealing with cases of glanders:

## RULES AND REGULATIONS

### OF THE STATE BOARD OF HEALTH FOR THE DESTRUCTION OF ANIMALS AFFECTED WITH GLANDERS.

WHEREAS, by section 62, of article IV, of chapter 25, of the General Laws, the Public Health Law, chapter 661, of the Laws of 1893, local boards of health in this state are required to destroy animals found with the glanders within their jurisdiction, and the proceedings of said local boards in reference thereto are to be con-

trolled and directed by such rules and regulations as the state board of health shall prescribe:

NOW, THEREFORE, the said state board of health, by virtue of the power vested in it, has prescribed the following rules and regulations to be observed by said local boards of health in carrying out the provisions of said Public Health Law, to-wit:

1. A local board of health being notified of the existence of said disease (glanders) must take proper means to determine the nature of the disease by employing a competent veterinary surgeon or other person or persons who, in their judgment, are competent to pronounce upon the nature of the suspected disease.

2. Upon the written certification of said veterinary surgeon or other person or persons thus employed, said local board of health shall kill, or cause to be killed, any animal or animals having the glanders, and shall cause the carcasses of all animals so killed to be disinfected and buried forthwith, at least three feet below the surface of the ground, and shall further cause all stalls, stables, barns, sheds, halters, harnesses, blankets, buckets, measures, mangers, racks, or other places or utensils which may have been exposed to the contagion of said disease to be thoroughly disinfected and cleaned.

3. Local boards of health are hereby cautioned against too hasty judgment, and advised to use every precaution to insure a correct determination as to the nature of the disease. A record of all proceedings should be placed in writing and filed in the office of the board of health.

4. Local boards must report all action taken to the state board of health.

**§ 11. Power to make rules for water supplies.—**Article V confers powers on the state board to make

examinations of potable water supplies and rules for their protection. (Sec. 70.) These rules when made are to be published once a week for six consecutive weeks in at least one newspaper in order that full publicity may be given to them, and those affected thereby cannot claim want of knowledge of the rules. For violation, a penalty can be fixed by the board not to exceed \$200 for any one offense or refusal to obey. The party benefited pays for this publication, and evidences of it are filed with the county clerk. The person or board having charge of the water supply (sec. 71) may inspect the water-shed to see if the rules made are obeyed. If violations be found, whoever has charge of the water-works shall cause a copy of the rule violated to be served on the offender with an order to comply with the rule. If the offender fails to obey this notice, the state board is to be informed by the party having control of the water supply, and it in turn examines to determine if the charge of violation is well founded. If the state board finds the complaint just, it orders the local board having jurisdiction to enforce the rules and regulations, and if the local board fails in ten days to do its duty, the complainants may bring an action in court against the offender for the recovery of the penalty imposed, and an injunction to insure obedience to the rules in future. But while this can be done, other matters have to be taken into consideration before the parties having charge of the water plant can compel obedience to the rules or the abatement of some insanitary condition. If the discharge of the sewage from a village or hamlet (sec. 72), or any other matter such as out-houses, barns, stables, pig-pens and the like, so drain as to pollute the water supply, the municipality or corporation owning the water supply have to pay all expenses attendant upon

the removal or change of these sources of contamination, and until they do that and reimburse the owners for any damage that may be done, the rules are inoperative as far as these particular violations are concerned. And no action can be maintained against them until the corporation or municipality has done its work in clearing up, paying costs and damage. The owners of the water supply are further required to maintain sewer systems or sewage disposal works where they may be necessary for its protection. The method of ultimate disposal of the sewage, or the plans of sewage disposal works must be approved by the state board before construction.

**§ 12. The Wallkill creek and Susquehanna river.** — By special enactments (secs. 73 and 74) the Wallkill creek and Susquehanna river near Binghamton are protected from pollution. For violation of the first a penalty of \$50 is provided, and for the second, one of \$25; both penalties, when collected, accruing to the benefit of the county treasury. In the protection of the Wallkill creek no mention is made of who is charged with seeing the law obeyed, but in case of the Susquehanna the local board of health having jurisdiction where the offense is committed is to examine into the offense, and if one be complained of, to see to its abatement.

**§ 13. To publish form of blank for reports of institutions caring for children.** — In article XII, section 204, the state board has to publish the form on which reports are to be made to the local boards of health having jurisdiction, of the sanitary and hygienic condition of institutions for the care of the destitute and orphan children (except hospitals), the report being made by the physician in charge. This form is shown in the chapter on such subjects.

§ 14. **Miscellaneous.** — This rapid review of the work expected of the state board gives but little insight into the amount of labor performed by it. That is, however, hardly relevant to such a manual as this work is designed to be, but it is not out of place to say the state board stands somewhat *in loco parentis* to local boards to advise and aid them in their work of guarding the public health; to settle questions pertaining to nuisances; to the collection of vital statistics and many others that are but little thought of and not outlined in the law. In consultation with other state boards of health, it considers questions affecting the health of the country and arranges for interchange of information as to contagious diseases or other matters of general interest which may arise. It meets monthly and has laid before it all the work done since its last meeting, and at these meetings plans for the sewerage of villages, which have been submitted under the provisions of chapter 375, Laws of 1889, are examined and passed upon. Committees are also appointed for investigations or any other work which the board may see fit to give them. Its work is steadily increasing and much effort is given to educating local authorities and the people to realize the importance of the public health service.



## CHAPTER II.

## LOCAL BOARDS OF HEALTH, HOW CONSTRUCTED; POWERS AND DUTIES.

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§ 15. **The care of the public health a paramount duty.** — The care of the public health is paramount to all things, for unless a people are healthy they cannot perform labor and the state suffers. Therefore it is that in all communities laws affecting public health matters are of necessity more or less arbitrary, for many, without regard to consequences, will not observe hygienic or sanitary rules and so endanger their neighbors as well as injure themselves, which latter is not of so much moment. The character of many immigrants now coming into the country is such as to be a constant menace to health, for the habits contracted in their own countries are not easily changed. Already the state has suffered from this class of immigrants, and their mode of living is one which tends rather to perpetuate than to kill the contagious germs. Against all, therefore, whether imported or of home production, the only protection is the strong hand of the law, the *argumentum ad hominem* having no weight whatever. With this knowledge and that of the absolute need of protection from all sources of disease, the legislature has from time to time passed laws governing health matters and conferring various powers upon boards or officials to act for the care and protection of the public health. These different laws, in the session of 1893, were codified in one general act—the Public Health Law—and by it, in article II, power is given to local boards of health to guard their municipalities against disease and to compel all therein to live so they and their belongings do not constitute a menace to the health of their neighbors.



§ 16. **Boards of health, how formed. Officers to be appointed. Vacancies, how filled.**—In all cities of the state, villages and towns, boards of health are required by law to organize. In cities, except in New York, Brooklyn, Buffalo, Albany and Yonkers, which are exempt from the action of this law, a board of health is formed by the mayor as president *ex officio*, and six other members, one of whom shall be a physician, appointed by the common council on the nomination of the mayor. The term of office is three years, and the board is so nominated as to allow of two members going out of office yearly. (Art. II, sec. 20.) The board appoints a physician for health officer and such other officers as it considers necessary. In a village the board is appointed by the trustees and consists of not less than three or more than seven members. The persons thus appointed cannot be at the same time trustees of the village, but should be citizens of full age, tax payers, and if the village welfare is a prominent interest with the trustees, men of high standing. These boards are only appointed for one year, and they, after organizing, appoint a health officer and registrar of vital statistics. For towns the board of health is composed of the supervisor, town clerk and justices of the peace, and added to them by themselves, a citizen of the town, of full age. This board of health also holds office for only one year, and is called upon to organize thirty days after the town election. At this meeting, the board having elected its president and secretary, elects a citizen member, appoints a town health officer and some one as registrar. If any vacancy occurs in any local board, if the proper authorities do not fill such vacancy within thirty days after its happening, then the county judge shall appoint a suitable person for the unexpired term of the one making

the vacancy. These local health boards are not ones that can or cannot be organized at the pleasure of municipal authorities. They are called for by statute and it is obligatory upon those charged with the duty of appointing and those by law constituted members of health boards to fulfill the letter of the law and see to it that each city, village and town has its board duly and legally constituted. It is a duty those charged with cannot get away from and one that can be enforced if necessary. (Sec. 31.)

§ 17. **Stated times for meeting. To meet if state board requires.**—Some stated time of meeting should be settled upon by each board. (Sec. 21.) As a general rule, once a month is as frequent as these regular meetings need be held. At them the reports of the health officers, which should be in writing, and of any committees or of inspectors, should be presented, and all orders and regulations formulated and adopted. The board should adopt some short by-laws for its own guidance in transacting the business it is called upon to do, as such by-laws will facilitate its work. Special meetings may be called at any time, and as often as necessary by the presiding officer of the board if he considers the protection of the public health demand such meetings. If in the presence of an epidemic, the board would probably meet much more frequently than in ordinary times. Such meetings would either be adjourned ones or special, as the case happened. In addition to these meetings, one shall be called if twenty-five residents, of full age, of the municipality, request such meeting, setting forth in the petition the necessity for it. The board meets also when required to do so by the state board or its president and secretary (sec. 25), and at such meeting the board must, if requested by the state

board, take definite action on any matter which the latter requires to be considered, and which is properly within the jurisdiction of the local board.

**§ 18. Board prescribes duties of the health officer, and fixes his compensation. Health officer must be a physician.**—The board prescribes the powers and duties of the health officer it appoints, who is made by law the chief executive officer of the board, and fixes his compensation. The object of having the health officer the chief executive, and having him a physician, is obvious. He is the sanitary adviser of the board, his professional education fitting him for such a position, and when the board is not in session he is expected to see its orders of general application carried out, and any special ones that may have been made; if the board has not directed otherwise. Being the chief executive officer makes him the one to enforce all orders of the board, even though he is not mentioned in the order or regulation as the one to enforce the rule, for he executes the board's will as its executive officer. The board fixes his compensation in such manner as it considers best, either by a certain salary, or by allowing so much per diem when engaged in his duties, or by paying some agreed on price for each piece of work performed. It is undoubtedly best to pay a certain salary as the health officer is always on duty, and not only at certain times or places.

**§ 19. Board has power to employ persons and fix their compensation.**—The board may employ such other persons as shall be necessary to enable it to carry into effect its orders and regulations, and fix their compensation. Under the power thus given, the board can employ counsel, experts, inspectors, guards, watchmen, laborers or others that may be required, but it

must always be borne in mind that such persons can only be employed when any or all are necessary for the board in its work of protecting the public health. If the board has no regular counsel and requires legal advice and assistance in an action to enforce an order to abate a nuisance, this section gives the authority to employ such counsel, and the same where, for example, an expert examination by a chemist or bacteriologist is needed of water used for drinking purposes which is suspected of causing disease. Or it may be necessary to place guards or watchmen over a house quarantined for contagious disease, or to employ laborers to abate a nuisance which the board has ordered removed, and the maintainer failed or refused to obey the order. This, like other implied powers of health boards, is in accordance with the fundamental principle that wherever a general power to do a thing is given, every particular power necessary for doing it is included.

**§ 20. Power to make rules and regulations.**

**Rules must be published.**—Boards of health make and publish from time to time all such orders and regulations as they shall consider necessary for the proper preservation of life and health, and the execution and enforcement of the Public Health Law in the municipality. These rules are of general application, and are framed to meet all conditions that experience has shown may arise and affect the public health. They are published in such manner as to give them full publicity, that all may have a chance to familiarize themselves with the orders of the board. This publicity may be by publication in one or more papers issued in the place, or in such that circulate amongst the inhabitants, even if not locally printed, or by placards posted in conspicuous places, or in any way the board considers will

call most attention to them. From time to time they are to be thus published; and as local boards, other than those of cities, change every year, each new board coming in publishes once a year. The rules need not be changed from those of the preceding board; and unless some special object is to be gained, it is much better they should not be, people having become familiar with the ones in force; but the board, by resolution, adopts the rules, and thus makes them its own. It is sought, in the making of these general rules, to cover all cases upon which the board may be called to act. This saves the trouble of making special rules, but does not relieve the board from passing upon each case separately and upon its merits. The decision, however, may be under the general rule, in which case it is all the better than where special orders have to be made, for the offense is not unique, and is one the offender should have known was against the published regulations of the board.

§ 21. **Board can impose penalties.**— For violation of any of the provisions of any rule of general application the board can impose a penalty. It is distinctly stated in the law the board may “prescribe and impose penalties for violation or failure to comply with” its orders. Boards cannot fine. To fine is to imply the person imposing the fine has the power to collect the same, but a board of health is not given that power. It is authorized to impose a penalty, in no case to exceed \$100, but it must collect this penalty in some court of competent jurisdiction. The defendant has, therefore, a further chance of showing cause why he should not be mulcted. If the court refuses to allow of the penalty being collected, it does not, in any way, relieve the defendant from the responsibility of obeying the order of the board to abate the nuisance which called forth the



imposition of the penalty, for the board only sues in court to recover the penalty, not to adjudicate the question of the nuisance. In placing penalties in any rule, the board must state a fixed sum, not a sliding scale as "from \$5 to \$25," but the fact that the penalty is \$5 or \$25, as the case may be.

§ 22. **In special cases order or rule does not have to be published.** — In certain individual cases, however, not covered by the rules of general application, the board may make an order and under such order the case is decided. These do not have to be published, for no other like case may come before the board, and the order is not one concerning which the general public need charge its mind. The order being a special one, not published, the person to whom it is directed must have it served upon him, and if he cannot be found, it should be posted in some prominent place on the premises to which it has reference. This rule should also be followed in orders made under the regulations of general application.

§ 23. **Board can issue subpoenas and administer oaths. Committees can hold hearing, but not decide.** — In the course of its duties it may be necessary for a board to examine more deeply into a given case than usual, one where from conflicting statements nothing short of examination under oath will clear up the matter and allow of the board coming to a just decision. To this end the board can issue subpoenas and examine witnesses with the same power as a justice of the peace, but no subpoena shall be served outside the jurisdiction of the board, and no witness can be examined on matters not related to the public health. If the whole board does not wish to sit and hear testimony, it may designate one or more of its members to act, and also appoint one

to issue the subpoena. If a committee be appointed to hold the hearing, the committee cannot decide the matter of itself, but must report to the board and it, having considered and adopted the report, decides the question. The board cannot delegate its power to any of its members or any one else in any case where the law requires the board to pass upon the question.

§ 24. **Power to issue warrant.** — When the board finds itself powerless to enforce an order, where the order requires the removal of some person, it may issue its warrant to any constable or policeman to remove the one obstructing, and, if necessary, a warrant to the sheriff of the county whenever such extreme power is required. The issuing of a warrant may be called for by a person who has been notified to abate a nuisance not only refusing to obey the order of the board, but preventing by violence, or a threatened violence, the entry upon his property of those authorized to enter by the board. Or in cases of a great epidemic it may be necessary to remove whole families to prevent the spread of contagion, and refusal to obey on their part may call for a warrant or the assistance of the sheriff.

§ 25. **To make complete the registration of vital statistics.** Boards purchase their own supplies. Copies of registered certificates presumptive evidence. — Boards of health are to make complete the registration of births, deaths and marriages within the municipality. (Sec. 22.) The state board prescribes the forms upon which the statistics are to be written, and all places must conform to the form thus prescribed. The state board does not issue these certificates to local boards, each local board purchasing its own supplies, but even then the size of the blank and the subject-matter must be exactly as prescribed by the state

board, and it would be well also if the thickness of the paper could be uniform. It may seem strange to have this statement made, but when one thinks that nearly a hundred and fifty thousand of these certificates were received in the department of vital statistics of the state board for 1892, that all these have to be filed and so kept as to be easily produced, the necessity of absolute uniformity ceases to be a matter of surprise. The importance of these records is being slowly realized and boards of health should pay greater attention to educating those whose duty it is to file with them these certificates. In the rules of general application full and explicit statements should be made concerning these certificates, and the penalty, after warning delinquents, enforced. After these certificates are recorded in the local register, they are to be forwarded to the state board. The law requires every parent of a child born, the groom, officiating clergyman or magistrate at a marriage, shall cause a certificate of such birth or marriage to be returned within thirty days after the event to the local board of health, and that the birth record shall be attested by the physician or midwife in attendance, and the marriage record by the person performing the ceremony. The cost of registration is not to exceed fifty cents for any one certificate. How this sum, if the whole of it is allowed, is to be expended, lies with the board. It can pay part to the person making the return and part to the registrar, or all to the registrar, or part of the full sum. The board is to make these records complete, and it is left to its discretion what method is best to secure the fullest returns. In cities where the registration is large, a salary is generally paid the registrar in place of fees.

To bury or remove a body without having first ob-



tained a permit to do so is a misdemeanor. (Sec. 23.) Every death must have made out for it a certificate, signed by the physician last in attendance, the coroner if an inquest has been held, or the affidavit attached to it of some reputable person setting forth the cause of death where neither doctor or coroner was in charge. This is required before a permit for burial or removal can be granted, for the permit can only be granted upon the filing of a certificate of death. The board designates who of its members shall issue the burial permits and also prescribes the sanitary regulations for the interment of bodies. These are rules of general application and relate to the manner in which burials are to be conducted, the proper confining of the body, whether the funeral may be in a church or shall be private and any other precautions considered necessary to protect the public from danger that may come from the corpse. While payment is arranged for (sec. 22) of a certain sum for the registration of any vital statistic record, no payment is provided for the issuance of a burial permit and nowhere does the law say a charge can be made for such permit. But it is distinctly stated it must be issued before a burial can take place and can only be so issued on the filing of a death certificate, therefore as the one is but part of the record required and is not complete or does not finish the matter it represents without the second part, the permit, the whole transaction is one and it is paid for by the fee allowed by the board for the registration of the death certificate. Copies of any of the records shall be furnished to any person asking, and for the making of such copy a sum not to exceed the price paid for registering the certificate may be charged, and if the copy be duly certified to, an extra fee of twenty-five cents may be required,

for the certified copy is presumptive evidence of the facts stated therein.

§ 26. **Duties regarding contagious disease.** —

One of the most important duties of a local board is to guard against the introduction of contagious disease and to provide for its care and limitation if it develops in the municipality. (Sec. 24.) Much may be said on this subject, for it is one engaging attention always. A board is empowered to protect its municipality from the invasion of contagious disease from an infected place by the inspection of all persons and things arriving therefrom. This is quarantine power but it is not designed that should small-pox or some other contagious disease break out in one place in the state, every board of health through whose jurisdiction a train passes which came from the infected place should stop that train, fumigate it, hold all passengers under observation and disinfect all baggage. To do so would be an excess of zeal and an injury to the traveling public not justified by the circumstances. For a few cases of contagious disease in one place does not make it a plague spot or of such a menace to health that every article coming from there must undergo inspection after inspection. "The law is common sense" and common sense must be used in construing it. When persons and things come from an infected place, where exists an epidemic of a violent nature, where no precautions are taken to prevent the spread of contagion; then a local board would be justified in taking extreme measures and endeavoring to stop any substance, animate or inanimate, which might communicate the disease. But the next board, after the first had finished with the persons and things, may trust to the work of the first and pass the travelers as safe. Should a case of contagious disease come from an-

other place, the board must take such precautions as will prevent the spread and not only in its own town, but anywhere else. And so if persons move into the jurisdiction of a board and come from a place where sickness of a contagious nature exists, the board by its health officer or some other doctor appointed for the purpose examines to see if the people are healthy and if so, he allows them to settle, but, should the period in which the disease could probably show itself not have wholly elapsed, he should keep a sharp lookout on the new-comers to see that none came down with the sickness.

§ 27. **Patients can be taken to hospital.** — Where the disease is highly contagious, if the board have a proper place to which the patient can be taken for isolation and treatment, it has the right to take the patient to such place. Boards are required to furnish suitable places where contagious diseases are to be cared for. A board is to maintain a strict quarantine and prevent any intercourse that might endanger the public health. This is made the subject of one of the general rules. The board reports promptly to the state board all cases of contagious disease.

§ 28. **Vaccine virus to be supplied by board.** — Vaccine virus is also furnished by the board, obtained from such source as shall be approved by the state board, and during an epidemic of small-pox the supply should be frequently renewed so as to have on hand while the epidemic lasts, fresh virus for immediate use. All public school children are required to be vaccinated. (Art. XII, sec. 200.) The work of thus vaccinating them is put on the school trustees, but the board of health can call upon the trustees to carry out the law if they neglect it. The school trustees being empowered to employ a physi-

cian to vaccinate the children (sec. 201), if they neglect the duty after having been notified by the board to comply with the law, the board can appoint the vaccinator and collect from the school trustees the cost of the work.

§ 29. **Contagious disease in alms-houses.**—If contagious disease break out in any county alms-house, and it is likely to endanger the rest of the inmates, the superintendent of the poor may cause the patients to be conveyed to such place as is designated by the health board, for care and treatment. This must be the place designated by the board having jurisdiction where the alms-house is situated, but the cost of maintaining the patient is to be paid by the county.

§ 30. **Boards may make rules for water supply if it is within its jurisdiction.**—The water supply of a city or village may become polluted by many causes and disease be traced to its use. The board, if the water-shed or the source from which the water is obtained is within its jurisdiction, can make such rules concerning it as will give protection from contamination. To do this, however, the board must have the entire supply within its jurisdiction, for without such being the case, the rules would only be applicable to that portion within the municipality served by the board and the source of pollution could be entirely outside the corporate lines. In such case the board, finding the water supply a menace to health, could request the state board to make rules for its care under the provisions of Article V.

§ 31. **Complaints by inhabitants must be examined. Power to enter premises.**—Complaints of nuisances made by the inhabitants must be examined by boards of health. (Sec. 25.) To so examine the board

has the power to enter upon, or by its members or employees designated to enter, any place and make all examinations necessary to determine the existence of a nuisance, and every one having any thing to do with the place examined must permit such entry. The result of the inspection is to be communicated in writing to the person responsible for the nuisance, owners, agents or occupants, and all of these parties have the right to a similar copy.

§ 32. **Board can only act on nuisance of danger to health.**—The board orders the suppression or removal of every nuisance or condition detrimental to health, but confines itself strictly to matters of such character, as it has no authority to deal with other kinds of nuisances. Nor must the board seek to construe by far-fetched reasoning all nuisances of more or less danger to health and therefore under its jurisdiction. This would be an excess of jurisdiction and render the work of the board useless.

§ 33. **Board orders abatement of nuisance. Expenses, how recovered.**—The board having inspected a nuisance coming under its rules, serves a written notice to abate upon the maintainer. If no compliance is given by the offender, the board has the right (sec. 26) to enter upon the premises and do such work thereon as will abate or remove the nuisance. The mode in which this stage of procedure is reached, will be treated of in the chapter devoted to such subjects, for the board must observe a certain course, otherwise its action will not be legal, and if the defendant appeal to the courts, the board will not be sustained. The expenses to which the board is put in thus abating a nuisance are to be paid by the maintainer and the board brings suit to recover. If judgment is satisfied, the sum recovered is



paid into the treasury of the municipality, for the expenses of the board in doing the work are submitted to the municipality and audited, collected and paid as other such charges are. If the amount is not recoverable from the person at fault, the board puts a lien upon the property (sec. 27) in the manner provided for and thus protects the municipality from loss.

**§ 34. Special power over tenement-house work.**

— Disease may be started in one place, and by means of clothes or other articles be carried to another, thereby causing a serious epidemic. To prevent this the board is given special oversight (sec. 28) of all places where the occupants engage in their trades in the places in which they live and eat. While the general powers of the board cover these places as they do every other, these were considered of sufficient importance to give specific power in dealing with this class of people. The section is so plain that it needs no explanation, for the procedure of the board is the same in abating nuisances or protecting from contagious diseases in these cases as in general ones. Should, however, contagious disease break out in such a tenement-house workshop, and the goods there manufactured are clothes or such like articles, the board can only fully protect by destroying the goods, woollen clothing being especially apt to retain diseased germs. Where tenement-houses are closely crowded, the health officer should examine to see if the ventilation is fully sufficient. If it is not, he should, if the rules cover, direct the number of people that can occupy each room; but if the rules do not cover, he should report the matter to the board and suggest an order be made concerning the matter, citing the owner of the tenement before the board at the same time in order that he may have full

knowledge of the proceedings and be informed of what is necessary in the future conduct of his tenement.

§ 35. **Jurisdiction, combined boards.**—The jurisdiction of a local board is only in its municipality. (Sec. 29.) The city board has no authority outside the city limits, the village board outside its corporate line, or the town board outside of the town. The town board has no authority in a corporate village even though the entire village be within its jurisdiction. If the village has no organized board of health — and the village has to have one or the trustees are liable to punishment in not obeying the requirements of section 20 of article II — the state board can in such a municipality act as a local board. (Sec. 11.) But expense to municipalities may be greatly reduced and equally good protection to public health given by the combining of one or more boards in a sanitary and registration district under the written approval of the state board. The number of the members of the town board is fixed by law. The village may not be less than three. Supposing a town and village desire to combine, the two boards meet together and organize by appointing a presiding officer and electing a registrar and health officer. Rules of general application for the whole district are adopted and ordered published. The persons who are to issue burial permits are designated ; the state board's permission is recorded and the combination is effected. In all matters pertaining to general application, the rules being common, the authority is derived from both boards ; but where it is a special case, the authority is given to the officers by the board having jurisdiction where the case is.

§ 36. **Expenses of board, how paid.**—The expenses of the board (sec. 30), those incurred in the discharge of its duties under the law, are to be paid by the



municipality, the accounts being audited, collected and paid as other such accounts are in the particular locality. The question of these expenses is often a vexatious one. The compensation of the health officer, clerk or registrar is fixed by the board ; and also of any other employees the board may find necessary to help in caring for the public health. Their compensation is fixed by the board and consequently the payment of it is a matter of passing through the form prescribed by the municipality for the auditing of such bills, for the amount, if the bill is a proper one, cannot be reduced by the auditing power ; the law giving the board the authority to fix the amounts. The auditing board, however, has the power to alter the amounts if they are unreasonable or excessive and the health board would then have rendered itself personally liable for the charges if it had personally assured the claimants the amounts would be paid. So all necessary expenses :— the purchase of office supplies, the publishing of the rules and regulations, the cost of printing notices, the legitimate expenses of members if they are put to any in performing their duties, the cost of abating a nuisance ; in short, all the expenses incurred by the board in the discharge of its important work are to be “audited, levied, collected and paid.” How far can a board go in running up a bill of costs ? This question can only be answered by the circumstances of the case. The board must protect the public health or be guilty of non-obedience of law, and to protect the public health oftentimes entails greater expense than any one at first anticipates. The board cannot hesitate. Like all other citizens the members pay their share of the taxes, and consequently, if their acts raise the rate, they suffer with others, but the board must do its duty regardless of cost.

**§ 37. Power of board to do work necessary to protect public health, if municipality refuses to.—**

The question is often asked, what power the board has to remedy a condition considered by it to be dangerous to public health and for which the municipality is responsible rather than private parties. For instance, a sewer leaks and floods house cellars; sickness is caused and the health board appealed to. The board finds on examination the facts of the complaint to be as stated and notifies the common council to abate the nuisance. The common council refuses to obey or pay any attention to the order. The board can then — the city owning the street and not obeying the order of the board — make contracts for the work of laying a new sewer, if that is the only and proper way the nuisance can be abated. The expense must be borne by the city when the amount is submitted by the board. This will serve as an example of all similar cases.

## CHAPTER III.

## THE HEALTH OFFICER.

- SECTION 38. Board prescribes duty of health officer. Civil service examination required. Chief executive.
39. Rules of board are the instructions of the health officer.
  40. Reports of contagious disease must be made. Diseases to be reported.
  41. Duty of health officer when contagious disease is reported.
  42. Board must supply medical attendance and care for contagious cases if patients are indigent. Contagious disease in hotels, boarding-houses and private families.
  43. Disinfection. Destruction of articles liable to hold contagion.
  44. Health officer must report contagious diseases to state board.
  45. Action of health officer upon a complaint.
  46. Health officer is always on duty.
  47. Health officer should report in writing.
  48. Health officer to visit institutions caring for children.
  49. Improper food articles forbidden sale. Health officers to seize.
  50. Miscellaneous.

§ 38. Board prescribes duty of health officer. Civil service examination required. Chief executive.—“Every such local board shall prescribe the power and duties of the local health officer, who shall be its chief executive officer, and direct him in the performance of his duties and fix his compensation.” (Sec. 21.) Boards are required to appoint competent physicians as health officers. (Sec. 20.) The office is not one either of great profit or emolument. It is one full of plenty of hard, disagreeable work, if the health officer dis-

charges his duty. The selection of a health officer is not the smallest duty of the board if it fully intends to do its whole duty in protecting the public health. The responsibility which rests upon the board in this respect is large, for the decision of this, its medical mouthpiece, oftentimes involves grave questions, and consequently the choice of this officer should be made with care and full knowledge of what he may be called upon to do. A doctor having the confidence of the community and of his fellow practitioners in his medical ability, will be a far more efficient guardian of health interests than one lacking these. The health officer is a state officer, it having so been decided by the courts. When he is appointed, the board should notify the civil service commission, who arrange for his examination as to his fitness for the office, which examination is non-competitive. Having once passed such an examination, he is eligible any time thereafter for the position of health officer, either in the place originally appointed or in any other in the state he may move to.

**§ 39. Rules of board are the instructions of health officer.**—The board's rules for protecting the public health are his general instructions, and as he is the chief executive of the board, he is the one to see its orders obeyed. Purposely the law requires him to be a physician, that as executive officer he may know, without having to turn to his books or to others to tell him, what things are of menace to health, what danger may come from this or that article exposed in a sick room where contagious disease exists, whether or not a given condition will cause disease. He has often to decide such questions at once in the board's name and in accordance with its rules of general application.

§ 40. **Reports of contagious disease must be made. Diseases to be reported.**—The rules require physicians and all others knowing of certain diseases in the municipality to report the same to the board or its health officer. The diseases thus called for are generally typhus, typhoid, scarlet and yellow fever, cholera, small-pox, chicken-pox, measles, diphtheria and membranous croup. At first sight, it may appear the reporting of some of these is superfluous, but a little study of the reason for including all will satisfy the most skeptical that full knowledge of the existence of any of them in the municipality is of moment to the public health. Typhoid fever, while not considered contagious, should call the health officer's attention to its cause. Is it an isolated case? Then perhaps it may have been contracted elsewhere, and due care of the discharges by the doctor and those in attendance will prevent its spread. If several cases are present or developing, some direct cause is at hand and the health officer's attention is first directed to the water supply. He, as health officer, should investigate the cause of the outbreak and reporting to the board the result, measures may be taken that will be of permanent benefit to the health of the community. The presence of typhus fever, it being highly contagious, must be made known to the health authorities that rigid steps may be taken to prevent its spread; and the same may be said of yellow fever, although the contingency of its making its appearance is but small. Cholera requires active work on the part of the board; small-pox also; and while chicken-pox and measles are of but small account in the rank of contagious diseases, the similarity they bear to small-pox in the earlier eruption is necessary to be borne in mind.

The health officer should know where such diseases are in his jurisdiction, so that if a mistake in diagnosis is followed by an outbreak of small-pox he may be in a position to examine localities where the other cases have been reported. And so with diphtheria and membranous croup, the former highly contagious, the latter not so, yet both having such a similarity of symptoms, that mistakes are often made as to the nature of a case, and danger to the public incurred where it might have been prevented had the health officer been notified of the cases and insisted on precautionary measures even if the patient appeared to him to be suffering from the non-contagious croup. Practically from a sanitary point of view these two diseases may well be considered identical.

**§ 41. Duty of health officer when contagious disease is reported.** — And what is the health officer to do if such cases are reported to him? The rules and regulations provide the method of quarantine. It is his duty to see these carried out. He should visit the case, not as a physician, but as a health officer; see that all proper and necessary precautions are taken to prevent the contagion spreading, explain to those in charge the rules of the board and the penalty for not obeying them. Of the treatment of the patient, unless it has been put under his professional charge by the family or the board, he has nothing to say. That is not his business as health officer; and if other doctors fear improper and unprofessional action on the part of the health officer, the obtaining of reports will be much more difficult, and the health officer who allows himself to interfere outside of his plain duty is not fit for the position he has been honored with. The quarantine established by the health officer under orders of the board, in all contagious diseases, is the measure of protection the



public receives. While having due regard for others and while rigidly fighting the spread of the contagion, consideration for the people thus afflicted must be had and the enforced sequestration made as easy as is compatible with safety. When the case can be taken to a hospital designed for its care, then the protection to the public is greatly increased and the annoyance of quarantine lightened for those undergoing it.

§ 42. **Board must supply medical attendance and care for contagious cases if patients are indigent. Contagious diseases in hotels, boarding-houses, and private families.** — If patients are unable to procure medical attendance and care, and are suffering from contagious disease, the board makes all necessary arrangements for the case, and the health officer becomes the medical attendant unless the board employs a physician for the specific purpose. In either case, the health officer has an oversight of all precautions against spread of the disease and must see the board's and his orders in this regard are strictly carried out. Should the case occur in a hotel or boarding-house, while the board can take charge of that part in which the patient is and strictly quarantine it — the sick person being too ill to be moved or there not being a suitable place to move him to — the health officer may advise all inmates, and he should do so, of the danger incurred by being near the case and should forbid any intercourse with that part of the house quarantined except such as he permits. And if the borders all leave, the health officer or the board cannot be held liable by the proprietor for the loss sustained by him in the emptying of his house, for the board has not ordered them away, but has merely pointed out the danger of their staying, and their leaving is an act of their own volition. If the case occurs in a private



house and the patient is to be treated there, the family, other than those necessary to care for the sick, can be directed to leave, especially if it is necessary for their support that they carry on their usual avocations, but, the board or the health officer cannot take other cases of like nature, except it be a member of the same family, to the house for treatment.

§ 43. **Disinfection. Destruction of articles liable to hold contagion.**—The health officer must see that thorough purification of all places and things exposed to contagious disease is made before allowing them to be used in the ordinary manner. The health officer decides what substances will require destruction, as his medical knowledge is for that purpose, and he causes to be removed all articles that cannot be so disinfected as to be perfectly safe, and has them destroyed. This he does under the authority of the board, for he cannot act unless by their orders, but as its executive he does not need to call the board together to receive specific directions in each case, the general rules governing such matters being his guide. For articles destroyed the board makes restitution, as they are so destroyed for the protection of the public health, and the public should, therefore, pay for them. To delay until the matter can be settled in court as to the value of such articles, is to run the risk of more cases, and thus endanger the public health far more than the value of any articles necessary to be destroyed could possibly equal. The board, therefore, by its chief executive, does what is required by the exigencies of the case to prevent others being taken ill — burns, washes, fumigates and disinfects, and settles the amount to be paid, if any, after it has performed its paramount duty of guarding the public health.

**§ 44. Health officer must report contagious diseases to state board.**—The health officer reports to the state board all cases of contagious disease in order that knowledge of where such are in the state may be had by the state department, and that it may notify other state boards as agreed upon by these bodies in a general conference. And the knowledge that certain diseases exist in certain localities gives the state board the chance of investigating the cause, and of advising measures to be taken which would tend to lessen disease in that municipality. The reporting of small-pox, scarlet fever, diphtheria, typhus fever or cholera in the first instance by the health officer is not paid for, but the state board may require monthly reports of such diseases as it names, for which certain amounts are allowed. (Sec. 24.) The cases thus to be reported monthly are stated in the law, and the amount allowed is also named. The payment for reporting them is made by the municipality in the same way as registrars of vital statistics are paid for their registration when paid by the certificate. The number of diseases reported each month by the health officer are certified to by the secretary of the State board on a return postal card, and this card is the voucher of the health officer that such reports have been made, and on these vouchers the local board allows his account which is to be paid as other such charges are.

**§ 45. Action of health officer upon a complaint.**—A complaint is received by the board or the health officer of some condition considered by the complainant to be insanitary. (Sec. 25.) The health officer inspects, examines into the complaint and notifies the party at fault, in writing, to abate; giving the reason for such notice, and quoting the rule under which it is issued, by number. This notice is partly printed, the

health officer filling in what is necessary to meet the case under consideration. A reasonable time is granted by the order, say three days, in which the defendant may get to work, and if the health officer meets the person at fault it is well to explain what is necessary, a few words oftentimes doing more to accomplish the end sought than a notice only partly understood. Should the notice not be obeyed, the health officer reports the fact to the board at its next meeting, if the case is one that can wait; if not, he reports to the president and suggests a special meeting be called, and advises what further can be done. If the case waits for the regular meeting, the health officer reports, in writing, with the rest of his work, this case; sees that the secretary of the board has given due notice to the defendant of the time and place of meeting; and that a citation has been served upon him to appear before the board to show cause why it should not proceed against him. This brings the case directly under the board, it now being out of the health officer's hands, he having carried out his instructions as far as the law allows, and the decision of the board in the further disposition of the matter will contain further instructions for him if the board so desires. Should this happen, the board directing him to enter upon the premises and do such work as may be necessary for the protection of the public health, he obeys such orders and completes the abatement of the nuisance.

§ 46. **Health officer is always on duty.**—The health officer is always on duty. He should in his daily rounds while attending to his regular practice observe all matters requiring remedy which come under the jurisdiction of the health board. He can advise in many cases what should be done and thus secure, with-

out the necessity of an order, the betterment of the sanitary condition of the municipality, for the welfare of the community is not only his duty as health officer but his interest as a citizen. The healthier a place is the more it prospers.

**§ 47. Health officer should report in writing.**— The health officer should always report, in writing, whenever the board meets, his acts since the previous meeting. These reports become part of the records of the board and should be entered in full on the minute-book. They should include all cases of complaints where he has made inspections, cases of contagious disease and what was done, a statement of the condition of the municipality as to prevailing diseases, the cause of such sickness, if he can give it, the sanitary state of the municipality and such recommendations as his experience may suggest would be of benefit in adding to the healthfulness of the place. As said before, his being a medical man is required, and, therefore, he is the sanitary adviser of the board. Being in daily contact with the people and seeing where much may be done to improve the hygienic surroundings, his suggestions should have weight with the board and aid it in the better discharge of its duties.

**§ 48. Health officer to visit institutions caring for children.**— If institutions for the care of children are present in the town, other than hospitals, the law requires them to submit, through their medical attendant, monthly reports on forms approved by the state board. (Sec. 204.) The health officer should verify these reports from time to time by personal inspection of the institution to see that every sanitary requirement is fulfilled; and if contagious disease is reported from any, he should immediately visit to see what precautions against spread has been taken. The medical attendant

must report to the health officer at once the outbreak of any contagious disease under the general rules of the board, and also state the same in his regular monthly report.

§ 49. **Improper food articles forbidden sale. Health officer to seize.**—Articles improper for food are forbidden sale. Health officers should make themselves familiar with section 41 of article III, and when they find any substance improper for food being offered for sale, the same should be seized and destroyed. The general rules should also cover this ground, going into particulars as to what should be seized. Where improper articles are not exposed or offered for sale in the municipality, but are being shipped to another place within this state, health officers, if conversant of the fact, should telegraph the health authorities of the place to which such articles are consigned that they may seize the same before being sold.

§ 50. **Miscellaneous.**—The familiar quotation has it, “eternal vigilance is the price of liberty,” and equally true is it that eternal vigilance will insure healthy communities and prevent epidemics of disease. And so the health officer should always be on the watch for the first indication of danger to the public health and be ready for action in its defense. To wait until an epidemic is started is to neglect his duty and to violate his oath of office. To him, as its executive officer, the board looks that nothing happens whereby the health of the municipality is endangered, and he should realize his responsibility and be prepared for the discharge of his duty in a manner fitting the honor of his office.



## CHAPTER IV.

RELATIONS OF DOCTORS, CLERGYMEN, MAGISTRATES AND  
OTHERS TO LOCAL BOARDS.

SECTION 51. Why support of the people should be given boards of health.

52. Specific duties of doctors and others, relating to vital statistics.
53. Duty of physicians relating to contagious disease and insanitary conditions.
54. Citizens should give attention to insanitary conditions existing on their property.
55. Duty of clergymen, magistrates and grooms relating to marriage certificates.
56. Attorney-general's opinion on return of vital statistics.
57. Reasons why physicians and clergymen should return certificates of vital statistics. General considerations.

§ 51. Why support of the people should be given boards of health.—In the social economy all must do their part for the maintenance of the state and law and order. This is a self-evident proposition for without it no common polity could be maintained, and a relapse into the old style of “might makes right” would follow. So in the matter of protecting the public health, charged by law upon legally constituted bodies whose authority is recognized by all, the great work must be participated in by others not official if the welfare of the community is to be properly preserved. Unless the people support the officers charged with the execution of the law which they, through their representatives, have enacted, the will of the people becomes absurd and of no avail, and, therefore, all citizens

are or should be as anxious to see carried out the regulations published for the protection of health as are the legal officers who enforce the same.

§ 52. **Specific duties of doctors and others relating to vital statistics.**—Certain specific duties are placed upon doctors, clergymen, magistrates, parents, and grooms of marriages in regard to vital statistic records. The health board is called upon to collect and enter these statistics, but to do so the aid of others must be had. The law, therefore, requires (Art. II, secs. 21 and 22), doctors to sign the cause of death of those they attend in the fatal illness, and the certificates of birth when their services are rendered. Midwives also sign these birth certificates if they attend the case. The doctor says, “But I get nothing for so signing a death or birth return. Can a man be called on to render service to the state without an adequate return for that service?” A question could be asked for the answer, for every one is notified to pay his taxes within a certain time; and if he fails to do so, he has to pay more. The citizen receives no pay for this service to the state. Instead, if he does not do it, he is punished by increased amounts demanded, and if he fails altogether, his property is taken to make good the amount. He does receive a benefit for the duty performed in the protection given him and his property by the action of the laws his tax helps to carry out, and exactly in the same way does he receive a return for performing the duty imposed by the law of filling out the vital statistic returns called for by the law. He may not be personally interested in the fact that the child of a patient was born and its birth recorded in the registers of the municipality and the state, but he may again be greatly interested should proof of such an occurrence be needed and the proof



not be forthcoming because of his neglect to obey the law. He receives a return from the state, less to be sure than in the other instance cited, by the knowledge that his children or grandchildren are so recorded that should cause arise for transcripts of the records, the records are on file and ready for copy. In the case of a death his duty to the community is clear in the filling out of his part of the certificate. The law makes it a misdemeanor to bury a body without a proper return of the death having been filed with the official granting the burial permit, and it requires the doctor last in attendance to insert the cause of death and sign the certificate. His signature is a guarantee that no crime has been attempted, and where danger from the character of the disease was to be apprehended, that he has taken precautions to protect others from it. The importance of this record is equal to the other and an added importance is found, for these returns, taken together, give information as to the prevalence of disease and cause inquiries to be made as to what steps are necessary to secure the removal of the cause or a lessening of its baneful effects. By neglect of his duty, imposed by the law, to sign, he makes others violate its provisions, for the body must be buried, and yet the law says it is not to be until he has signed the death certificate and a permit is issued thereon. He commits a misdemeanor and compels another to do likewise. But aside from this, the record is of value to him as to the family of the deceased, for it may be necessary to prove in court facts concerning the death set forth in the certificate which may have interest for the physician as well as for others. The constant call for transcripts of these records prove their great value, and every effort should be made to render them complete.

§ 53. **Duty of physicians relating to contagious disease and insanitary conditions.** — The relation of the doctor to the board in this matter of vital statistics is important, but it is not his only relation nor the most important one. He is of the profession that must deal with disease, and in his hands the physical well being of some portion of the inhabitants is placed by them for care. He should be of the first, therefore, to aid the health authorities in their work of rendering the place where he lives more cleanly and healthy, and, therefore, more attractive to settlers. When called to a case of contagious disease, he should promptly notify the health officer and aid in taking all precautions against spread. While this duty may be and is called for by the rules of the board, it is also called for by higher motives than mere obedience to the mandates of health authorities ; it is in the interest of all the inhabitants that contagion should be guarded against, and to no one more than the doctor. Where, in his daily rounds, he sees matters in such an insanitary condition as to be of menace to health, he should use his influence to have them changed, and if that fails, advise the board that it may take measures to do so. The aid physicians can render to constituted authority to improve the sanitary condition of a municipality is greater than most doctors think, for they are fitted by their studies to understandingly pass upon such subjects, and the people naturally look to them for guidance in matters pertaining to health.

§ 54. **Citizens should give attention to insanitary conditions existing on their own property.** — If more general knowledge of what tends to improve the public health could be disseminated, more support would be given the efforts of those who try to carry out the behests of the law. If citizens would aid in making

their municipality healthy by seeing that no insanitary condition exists on their own premises, both they and their neighbors would be better off. If owners of tenement-houses would see to it that such places were in and of themselves sanitary, the health authorities could more easily guard against the danger from disease coming from the inmates. But it is found that such work is more than neglected. Where the poor, from necessity, have to crowd together in buildings with improper drainage, which is enough of itself to cause disease, the chances of sickness breaking out and spreading is greatly increased. The people may be but able to earn enough for the bare necessities of life and with scant and poor food the condition of the body is depreciated. Add to this conditions which they cannot control: impure air, foul emanations from drains and other places, insufficient ventilation of rooms — matters which can be prevented; and a combination is effected which one can only wonder does not cause more disease in our closely settled districts than is shown by statistics. Certain diseases when grafted in such places become almost endemic. The germs find fitting soil in which to grow and, though lying dormant at times, appear in some cases never to entirely die out, asserting their presence from time to time when atmospheric conditions are such as to further their activity, when nothing short of most energetic measures will eradicate them. Those owning such places should understand the danger is not confined alone to those living therein. It may be carried by the tenants to houses where they work; houses in which science and ample means combined have, in every way, rendered as safe from disease as human ingenuity can make them, and cause death to the more favored inmates.

Insanitary conditions in the better class of houses are equally dangerous. The danger may not be so far reaching, but it is close to the dwellers, and their own interest is to remedy it. Still it is found too often the health board must make peremptory orders to save the people from themselves. It appears that money expended in such matters is considered as money wasted, for nothing shows for the expenditure, and belief of danger is not easily induced until practical experience of its presence has caused a loss more deeply felt than that of the almighty dollar.

The work of the health board, therefore—while its performance is to be carried on by those appointed to the office, is one in which all not only have an interest, but all should bear their part. Where conditions of menace to health are known to exist, information should be given the board that efforts may be made to improve. Where public needs clearly indicate works of public sanitation—which cannot be carried out except by the suffrage of the inhabitants—; the future benefit should be more considered than the present cost; for not only are they adding to their own healthfulness, they are insuring to those who come after ample protection or at least the groundwork on which more can be done if more is needed. War is a state to be dreaded. All play their part if it has to come and all strive to avoid it if possible. Public interest from the rostrum to the work bench is excited and every one does his share to protect the common country from its danger. But disease becomes familiar by its frequency. It is taken as a visitation of the Deity and the preventing of it is to be looked after by boards of health and the doctors. It is an enemy more powerful and more fatal than the greatest nation, but because we must all die, the question of

entering into a fight with disease is not one to arouse great interest unless the outbreak becomes or is likely to become, of magnitude. Then there is a rushing and a fevered effort to do in short order what should not have to be done — what would not have to be done if all had recognized the importance of the work in their daily routine and kept their own places in such a state as to prevent disease gaining a foothold, or had continually given aid and countenance to the health authorities in their efforts to the same end. “Cleanliness is next to Godliness” is an old saying, and in one sense it must certainly be true, for many are more godly than clean. By cleanliness alone can disease be successfully kept under. And the people have this matter as much and more in their hands than do the officials.

§ 55. **Duty of clergymen, magistrates and grooms relating to marriages.**— Clergymen are also leaders of public thought and teachers of a higher life. Their duty to the public in the returning of marriage certificates is the same as the doctors with births and deaths. Being the only persons, other than certain officials, empowered by law to perform the marriage ceremony, they are called on to certify to such performance and it goes without saying how important records of such contracts are. And as teachers of a higher morality, they should set the example and follow the divine instruction to “render unto Cæsar the things that are Cæsar’s,” for to do otherwise is not to practice what they preach. To set up the dictum of their church as higher than the law of the land in which they live, or to constitute themselves as judges of whether they shall return a marriage certificate or not, is to place themselves at the mercy of the board and to render themselves liable to the penalty under the law. The deficiency in the total



of marriages returned shows conclusively clergymen are derelict in this duty, and but for the forbearance of local boards they would be cited before them to show cause why they should be exempt from obedience to the rules of those boards. The groom of a marriage is responsible for the returning of the certificate to the board. But his neglect does not relieve the person performing the ceremony from his responsibility to the state, and the groom, as the generality of men go, is not at the time he is a bridegroom in such a mental condition as to be always in the clearest of mental attitudes or to care whether a certificate is registered. So it is not asking too heavy a work or one requiring too great an expenditure of time or money for the clergyman to relieve the groom of the duty of forwarding the record to the health board and to do it himself. Where a magistrate is the officiating officer, he is likewise required to fill out his portion of the certificate and to return it or see that the groom does. Being a magistrate his orders are more apt to be obeyed in such a matter than the advice of a clergyman to attend to the proper disposal of the certificate.

§ 56. **Attorney-general's opinion on return of vital statistics.**—It may be well to call attention at this point to the opinion of Hon. Charles F. Tabor, attorney-general, on this question of making returns of vital statistics. The laws quoted by the learned attorney-general are now repealed, but they are embodied in the new law about which I am writing and in almost precisely the same words, so the opinion is of the same value and weight now as when given. This opinion was sought in the case of marriages, but the principle involved is equally true in the matter of death and birth certificates and has been so quoted since it has been first published.

## OPINION OF ATTORNEY-GENERAL

ON DUTY OF CLERGYMEN AND MAGISTRATES TO RETURN  
MARRIAGE CERTIFICATES PROPERLY FILLED OUT TO  
REGISTERING OFFICER.

Chapter 322 of the Laws of 1880 established a state board of health and conferred upon it certain powers.

Section 7 provides that "it shall be the duty of the state board of health to have the general supervision of the state system of registration of births, marriages and deaths, and also the registration of prevalent diseases. Said board shall prepare the necessary methods and *forms* for obtaining and preserving such records and to insure the faithful registration of the same in the several counties and in the central bureau of vital statistics at the Capitol of the state."

Chapter 270, Laws of 1885, provides for the formation and organization of local boards of health in the different towns, villages and cities of the state, and confers upon said boards certain powers. Among these powers are those contained in subdivision 5 of section 3, which provides as follows: "To supervise and make complete the registration of all births, marriages and deaths occurring within the limits of its jurisdiction, in accordance with the methods and forms prescribed by the state board of health, and to secure the prompt forwarding of the certificates of birth, marriage and death to the state bureau of vital statistics after local registration, \* \* \* and to secure the completeness of the said registration, it shall be the duty of the parents or custodian of every child, *and the groom at every marriage, or the clergyman or magistrate performing the ceremony,* to secure the return of the record of such birth or mar-



riage to the board of health, or person designated by them, within thirty days from the date of such birth or marriage, and each record shall be duly attested by \* \* \* the clergyman or magistrate officiating at such marriage."

It will be observed by these provisions that it is, first, the duty of the state board of health, and it is given the power, to prepare the necessary methods and "forms" to insure the faithful registration of marriages, and that it is also made the duty of local boards of health to supervise and make complete the registration of marriages, in accordance with the methods and "forms" prescribed by the state board, and that it is also made the duty of the groom at every marriage, or the clergyman performing the ceremony, to return, within thirty days, the record of such marriage to the person designated by the board of health, and it is the duty of the clergyman to attest the certificate.

The "form" of the certificate; that is, the facts to be stated therein, is passed upon by the state board of health, and it is for that board to say what facts will give the necessary information as to the performance, etc., of the marriage ceremony; and in accordance with this power and duty the state board has prepared and furnished a certain form of certificate, which, when filled out, will contain all, and no more than the board considers necessary to be stated, in order to give the information contemplated by the acts above referred to.

It is not for the person performing the ceremony to say what he, in his judgment, considers a necessary certificate, or for him to furnish simply what he considers the necessary information. That is a matter which the state board of health determines upon, and for that reason the state board is required to prepare the forms

for the purpose of insuring proper registration; and it is made the duty of the groom or the person performing the marriage ceremony, to secure the return of the record, properly attested, and containing a statement of the facts designated by the state board, within the time and in the manner prescribed by the statute.

It is true that the statute requires the groom *or* the clergyman or magistrate performing the ceremony to secure the return of the record of such marriage. It is a co-ordinate duty devolved upon each, and it is the duty of each to see that the requirements of the statute are complied with. The groom could not, of himself, without the assistance of the clergyman performing the ceremony, make the return, for the reason that the return must be attested by the clergyman; nor could the clergyman himself, without the assistance of the groom, make the return, for the reason that the statements contained on the back of the certificate relate to matters only within the knowledge of the bride and groom, and for this reason the statute makes the duty a co-ordinate one, resting upon both the clergyman and groom; and I think it is clearly the duty of the clergyman or person performing the ceremony to see to it, if it lies in his power, that the information contained on the back of the certificate is furnished to the person designated by the local board of health.

Very respectfully your obedient servant,

CHARLES F. TABOR,

*Attorney-General.*

§ 57. Reasons why physicians and clergymen should return certificates of vital statistics. General considerations.—Physicians and clergymen enjoy certain privileges conceded by the public, as for instance,

freedom from jury duty. The public consider such concessions proper and right. It has an equal right to expect of these persons that duties imposed by the law above quoted will be cheerfully and promptly rendered. If the question be carefully studied it will be found these men have benefits which more than compensate for the unpaid duty they are called on to perform by the Public Health Law. It may seem somewhat out of place in a manual for the guidance of health officials, to enter upon the relations of others to them instead of confining the work to their particular duties. But while recognizing the seeming inconsistency, it is more apparent than real, for unless the official knows and can explain to one arguing he is not called on to do any thing, that all the work should be by the official and all directions come from him; the latter will be placed in the position of having to do by the strong hand of the law what could as well and better be accomplished and which would be in the majority of instances readily done, if the matter be only fully understood. Few stop to realize their own responsibility to the community. "What do we have officers for and pay them if we have to do the work?" is a question frequently asked. While the routine labor is given to the public servant, his labor would be useless unless aided and encouraged by the ones for whom it is performed. All thinking persons believe in caring for public health. All would willingly denounce those who are charged with its care if they neglect their duty. But while all are willing to find fault and criticise, all are not equally willing to help or do their share in guarding the public welfare. Let threat of invasion of some epidemic be present and the cry goes up that this or that person or board, whose duty it is to prevent, if possible, such invasion, must do

something. And many and diverse are the "somethings" that are to be done. Some penny-a-liner calls on the officials to act in ways that would land them behind the bars, for no law could be found for their action. And the writer of the article knows nothing of what he writes other than he is reflecting the opinions of those equally well informed who talk loudly of what should be done. Learned societies meet and pass resolutions that this or that change should be made in the public health service, this or that method of disinfection should be followed, have their valuable deliberations published in the daily press, and then adjourn to attend strictly to their own private interests, never for a moment seeming to think they should do more than merely talk. The life of a health officer is not always "a happy one," for he is blamed for what he does do and blamed if he does not do it.

## CHAPTER V.

WHAT CONSTITUTES A NUISANCE; MODES OF PROCEDURE TO ABATE NUISANCES; POWER TO ENFORCE PENALTIES; HOW THEY SHOULD BE COLLECTED; CITATIONS OF LAW.

SECTION 58. Nuisance defined; example. The right to life, liberty and property is not absolute and uncontrollable.

59. Notice to abate; how made and served.

60. To enforce order board must proceed by due process of law.

61. Order disobeyed; further proceedings of board.

62. Board to enter upon property and abate nuisance. Board will be upheld if procedure is in accordance with law.

63. If judgment is not satisfied, lien is to be placed on property.

64. All proceedings to be recorded. Records presumptive evidence.

65. Board to fix compensation. Opinion of attorney-general.

66. Procedure in cases of dire necessity.

67. Every nuisance must be considered separately.

68. Each offense should have its particular indictment. Board passes upon what is a nuisance.

69. If municipality is maintainer of nuisance, board may order it to act. Opinion of attorney-general.

70. Physicians must report contagious diseases. Health officer the legal expert to determine diagnosis.

71. Power of board to make rules for plumbing and drainage.

72. Health officers are state officers.

§ 58. Nuisance defined ; example. The right to life, liberty and property is not absolute or uncontrollable.— What is a nuisance? Easy enough to ask but not so easy to clearly define. Many complaints

are received by boards of health that are inspired by malice, by a desire to cause annoyance to the one complained of by having an inspection made by officers of the board. Oftentimes complaints are made of nuisances, which have to be corrected, because the complainant wishes to retaliate in some way on the maintainer and yet does not care to bring vengeance upon himself. Boards of health, however, cannot consider the reason for the complaint if it is made by a citizen. Sufficient that it is made. The law says every board "shall receive and examine into all complaints made by any inhabitants concerning nuisances." (Sec. 25.) It is not discretionary on the part of a board whether the complaint shall be examined or not, it is mandatory, and, therefore, the board must examine into it, and if a nuisance is found to exist, direct its removal or abatement; if none is found, to so state. It is then necessary for the board to know what constitutes a nuisance which is of menace to the public health, for over nuisances of other kinds the board has no jurisdiction.

A nuisance has been defined as follows : " A nuisance, in the ordinary sense in which the word is used, is any thing that produces an annoyance, any thing that disturbs or is offensive ; but in legal phraseology it is applied to that class of wrongs that arise from the unreasonable, unwarrantable or unlawful use by a person of his own property, real or personal, or from his own improper, indecent or unlawful personal conduct, working an obstruction of, or injury to, a right of another, or of the public, and producing such material annoyance, discomfort or hurt, that the law will presume a consequent damage." (Wood's Law of Nuisances, 2d ed., 1.) While many matters come under the above definition, matters for which the person aggrieved has his remedy



at law, they are not nuisances which he can call upon the board of health to remove, for they do not constitute an injury to his health. As an example, a stable may be of great annoyance to the people living next to it. If the board is complained to it must in its investigation take only into account the question of whether the stable affects the health of the complainants. Is the stable clean? Yes. Is manure retained in improper receptacles and kept so long that decomposition renders it of danger to health? No. Is the drainage from the stable and washing stand for carriages allowed to stand and become foul? Or does it find its way into the next house? No, it is cared for by proper drains. Does the accumulated night air from the stable escape in volume in the morning and affect the health of the complainants? No, the stable is properly ventilated. Do the horses keep up a constant stamping during the night and so prevent sleep? No, all are quiet. Does examination show any person in the complainant's house to have been made ill because of emanations from the stable? No, no one has been ill. Why then the complaint? There is a smell at times and it is not pleasant to have the stable alongside of the house. The board has no cause for action and should dismiss the complaint, for though the stable may be a nuisance to the people of the house and an annoyance, unless it is a nuisance which affects health or is likely to do so in a short time the board cannot act. (Underwood v. Green, 42 N. Y. 140.) The disagreeable odor or the annoyance of having the stable next to the house, while it may be a nuisance and one for which the party aggrieved has his remedy at law, is not one the board of health can order abated. But if it is found, on examination, the emanations from the stable are causing sickness, that the noise of horses is preventing sleep and

so interfering with the comfort and health of the neighbors, or any thing else which is an injury to health; the board can properly issue an order requiring abatement in such manner as to remove these evils. Persons can use their own property as they like, provided it is not of injury to their neighbors. The right to life, liberty and property is not absolute or uncontrollable. (Bertholf v. O'Reilly, 74 N. Y. 509; Stuyvesant v. Mayor of New York, 7 Cow. 588; Hodges v. Perrine, 24 Hun, 516; Blair v. Forehand, 100 Mass. 136; Commonwealth v. Tewksbury, 11 Metc. 55; Morey v. Brown, 42 N. H. 373; Guillote v. City of New Orleans, 12 La. Ann. 432; Thorpe v. B. & R., 27 Vt. 140; Kings v. Davenport, 98 Ill. 305; Allerton v. City of Chicago, 6 Fed. Rep. 555; People v. Hawley, 3 Mich. 330; 10 id. 489; 11 id. 264; Taylor v. State, 35 Wis. 298; Nodin v. Mayor of Franklin, 4 Yerg. [Tenn.] 163; 2 Kent's Com. 339 [margin]; 1 Dillon on Municipal Corp., §§ 209, 213.)

The board, therefore, having examined into a complaint satisfies itself before issuing an order concerning the matter complained of, that it is a nuisance or likely to shortly become one of menace to public health. It then issues the order to the maintainer to abate the same. We will suppose the complaint to be a nuisance and one coming under the rules of general application published by the board as provided for in section 21 of article II.

**§ 59. Notice to abate; how made and served.—**The notice to abate is served, in writing, upon the maintainer of the nuisance, owner or occupant, and in the notice is set forth the nature of the nuisance, that complaint has been filed and inspection made, that such a nuisance is in violation of such and such a rule made

and published by the board, and that the penalty for violation of that rule is a certain sum. This order is generally served by the health officer, or by an inspector, or whoever is designated to serve such order. It must be personal service, or if the maintainer cannot be found, it may be posted in a conspicuous place upon the premises. (Sec. 21.) A reasonable time is given to comply with the notice, say three days, during which the maintainer is getting ready to do the necessary work. The three days, if that length of time be allowed—the time given is discretionary with the board—even if the person notified at once begins work, may not be long enough to complete it, but he is obeying the order of the board and cannot be molested. But if he makes no effort to comply with the order, refuses to obey or do any thing, the board must proceed further. It has the power to make rules and enforce them. (Sec. 21.) (*Polinsky v. People*, 73 N. Y. 65; *Cronin v. People*, 82 id. 318; *City of Rochester v. Collins*, 12 Barb. 559; *People v. Cox*, 7 Hun, 214; *Roberts v. Ogle*, 30 Ill. 459; *Cooper v. Schultz*, 32 How. 107; *Coe v. Schultz*, 47 Barb. 64; *Meyer v. Special Sessions*, 12 Wk. Dig. 367.)

§ 60. **To enforce order, board must proceed by due process of law.**—To enforce its order regularly, it must pursue a given course, for it may be necessary in abating the nuisance to take or destroy some property, and the Constitution allows of this being done only according to due process of law. (*Walker v. Sauvinet*, 92 U. S. 90; *Westervelt v. Gregg*, 12 N. Y. 203; *Bk. of Columbia v. Oakley*, 4 Wheat. 235-244; *Hurtado v. California*, 110 U. S. 537; *Weimer v. Banbury*, 30 Mich. 201; *Blazier v. Miller*, 10 Hun, 435; *Wynehamer v. People*, 13 N. Y. 378; *Taylor v. Porter*, 4 Hill, 140; *Happy v. Mosher*, 48 N. Y. 313; *People v. Supervisors*,

70 id. 228; *People v. McCarthy*, 45 How. Pr. 97; *Darlington v. Mayor of New York*, 31 N. Y. 164; *Rockwell v. Nearing*, 35 id. 302; *Green v. James*, 2 Curtis [C. C.] 187.) Every man has a right to defend himself and show cause why he should not be punished. Every one is entitled to his day in court. (See authorities quoted above.) And the actions of health boards in ordinary cases are no exception to general rules. Therefore, while it might be and is, in certain cases (sec. 26), allowable for the board to proceed to abate, to enter upon the property by its agents, officers or servants, and do such work as may be necessary to render this of no danger to public health, the board will more often secure compliance with its orders if it follows a more conservative method of procedure.

§ 61. **Order disobeyed; further procedure of board** — The order is disobeyed. No attention is paid to it by the person notified. The board then should cite the one at fault before it to show cause why he should not have a penalty imposed upon him for failure to obey the rules of the board and an order made by it. This citation should recite the reason for it, require the defendant to show cause why his property should not be condemned as a nuisance of menace to public health, the rule violated, the penalty, time and place of meeting; and it should be served as a subpoena is served. The defendant can appear either in person or by counsel. When his case is called, the report of the complaint, the complaint-book in which it is entered, should be laid before the board. The health officer generally presents the case to the board; has the complainant present if necessary; has the inspector or person who examined the complaint also present to show the condition found; if he inspected it himself he so states and shows why there

is menace to health; the order served on the defendant to abate is produced and the evidence that nothing has been done by the defendant to comply with or obey. The defendant is then called on to show why the order was not complied with, and after he has introduced his evidence, the board passes judgment on the matter by resolution, either condemning the place as a nuisance of menace and danger to public health, or making such other disposition as may be proper. If the board considers it necessary, it can examine all witnesses under oath, having in matters of this kind the same power as is given to justices of the peace. (Sec. 21.) We will consider the board finds a nuisance exists and orders its abatement. The resolution condemning should recite the main facts of the case and why the board condemns. The board then makes the order, directing the defendant to abate the nuisance within such time as may be set by the board, and failing such action on his part, the health officer as the executive officer of the board, is to enter upon the premises, do such work as is necessary to put them in proper sanitary condition and insure them being of no nuisance to the public health, and to proceed to collect, in the name of the municipality, the penalty imposed for violation of the rules before set forth. The rule is again quoted by the number of the section, but the penalty is mentioned in full, and copies of the resolution condemning and the order are to be given the defendant. If the defendant fails to appear, either in person or by counsel, or appears and refuses to plead, the board can proceed, for the defendant has waived his constitutional right to be heard. He cannot plead in bar of the board's decision that some other business kept him away or he did not think it necessary to answer, etc. The board practically gives judgment by default, and it



is perfectly within its rights to do so. The proceedings having closed, the defendant again refuses to obey by doing nothing under the order. If he opposes entry upon the premises at the end of the time allowed in the order to the board's representatives, the board calls upon the constable by issuing to him its warrant to remove the defendant, or calls upon the sheriff in the same manner.

**§ 62. Board to enter upon property and abate nuisance. Board will be upheld if procedure is in accordance with law.**—The health officer now enters upon the property, employs the necessary labor to abate the nuisance, and proceeds to sue for the cost of the work, in the name of the municipality. (Sec. 26.) If the board has so directed, he also sues to recover the penalty, and both actions are brought by the counsel of the board, it having power to employ one if there is no regular counsel employed by it. (Sec. 21.) The courts will uphold the board when its procedures have been in accordance with law, clearly within the powers conferred upon it and where there has been no excess of jurisdiction. (Weil v. Schultz and Eckel v. Schultz, 33 How. Pr. 7, and Judge Dykman's decision in Turner v. Board of Health of Mt. Vernon; Board of Health of New Rochelle v. Valentine, 32 St. Rep. 919; Board of Health, Village of Nyack, v. Eells, 20 id. 886; Board of Health, Village of New Brighton, v. School Trustees, 18 id. 251.)

**§ 63. If judgment is not satisfied, lien to be placed on property.**—If the defendant is not good for the judgment obtained for the cost of the work, the board places a lien upon the property, as provided for in section 27, and recovers by sale of the property the money expended by it in abating the nuisance. The



funds thus collected by suit or by sale are placed in the hands of the treasurer of the county and are an offset to the extra expenses submitted by the board to the board of audit.

§ 64. **All proceedings to be recorded. Records presumptive evidence.**—All the proceedings taken by the board, all the resolutions declaring matters nuisances of menace to health and all orders are spread in full upon the minutes of the board. These become presumptive evidence of the facts set forth and may have to be used if the defendant obtains an injunction against the board restraining it from proceeding further until hearing can be had before the court to show the board proceeded in a proper manner and by due process of law (*City of Salem v. Eastern R. R. Co.*, 98 Mass. 431.) The injunction may be granted; but where the board's proceedings have clearly been within its power and properly taken, the exercise of discretion by it in matters within its jurisdiction is not reviewable. (*Savage v. Board of Health*, 33 Barb. 344; *Cooper v. Schultz*, 32 How. Pr. 107; *City of Salem v. Eastern R. R. Co.*, 98 Mass. 431; *In re Weisels*, 13 Week. Dig. 185. See also *Dykman, J.*, decision in *Turner v. Board of Health, Mt. Vernon.*)

§ 65. **Board to fix compensation. Opinion of attorney-general.**—When the board employs counsel to act for it, or other persons to do work under it, it fixes the compensation to be paid and such charges are sent to the municipal authorities for payment. The board fixes the amount and audit has to follow. (*Wemmell v. Bd. of Auditors, Town of New Lots*, 34 Hun, 336.)

The opinion of the attorney-general, herewith given, covers this point:

## STATE OF NEW YORK:

ATTORNEY-GENERAL'S OFFICE, }  
ALBANY, *January 23, 1891.* }

LEWIS BALCH, M. D., *Secretary State Board of Health:*

DEAR SIR :— In reply to your communication of the 13th instant, asking me if, in my opinion, the board of town or village auditors, or the auditing boards of cities not exempted from the provisions of chapter 270 of the Laws of 1885, have power to reduce the compensation of health officers, after the same has been fixed by the board of health, and also if they have power to reduce the compensation of other persons employed by boards of health below the amount fixed by said board, I beg leave to state as follows:

Chapter 270, Laws of 1885, provides for the organization of boards of health in towns, villages and cities throughout the state, except in the cities of New York, Buffalo, Albany, Yonkers and Brooklyn, and gives such boards certain powers, among which are as follows:

Subdivision 2, section 3: "To prescribe the powers and duties of the local health officer, who shall act as executive officer of the board; to direct him from time to time in the discharge of his duties, and to *fix the compensation he shall receive.*"

And subdivision 8: "To employ all such persons as shall be necessary to enable them to carry into effect the orders and regulations they shall adopt under the powers vested in them by this act, *and to fix their compensation.*"

Section 5 of this act provides that "all expenses incurred by the several boards of health, in the execution and performance of the duties imposed by this act, shall

be a charge only on their respective cities, villages and towns, and shall be audited, levied, collected and paid in the same manner as other city, village and town charges are audited, levied, collected and paid."

It will be observed by these provisions of the statute that the compensation that the health officer is to receive is to be fixed by the board, and also that the compensation of all such persons as may be necessary to enable them to carry into effect the orders, etc., of the board shall be fixed by the board, and when the statute authorizes them to fix the compensation, it can only mean that they shall designate the amount. It does not vest power in any other board to fix such compensation, but expressly gives it to the board of health, and section 5, which provides that all the expenses of the board, under the act, shall be audited, levied, collected and paid in the same manner as other city, village and town charges are audited and paid, does not authorize the boards of auditors of such towns, villages or cities to reverse the action of the board of health in fixing the compensation of the health officer and other persons employed by it. The compensation of the health officer and the other persons employed by the board of health must be "audited" at the amounts fixed by the board, and the whole expense audited, levied, collected and paid in the same manner that other city, village or town charges are audited, levied, collected and paid.

I am of the opinion, therefore, that generally the boards of town and village auditors, and the auditing boards of cities not exempt from the provisions of the act, would have no power to reduce the compensation of health officers appointed by the board of health, or

the compensation of other persons employed by them, under subdivision 8, section 3, *supra*.

Very respectfully,

Your obedient servant,

CHARLES F. TABOR,

*Attorney-General.*

§ 66. **Procedure in cases of dire necessity.**— In following the mode of procedure just recited, time is necessarily taken, for it is rarely that great danger or hurt will follow the delay necessary, and no question but that all rights are conserved and the action of the board is not by due process of law can be raised. (Underwood v. Green, 3 Robertson; 86 Barb.) When, however, the case is one of dire necessity, the board can act at once, and even destroy property without compensation to the owner, or without the formality of a legal investigation. (Wynehamer v. People, 13 N. Y. 451; Russell v. Mayor of New York, 2 Denio, 485; Stone v. Mayor of New York, 25 Wend. 157; Van Wormer v. The Mayor, 15 id. 262; affirmed, 18 id. 169; Blair v. Forehand, 100 Mass. 140; Meeker v. Van Rensselaer, 15 Wend. 397.) For in such case to wait would be to endanger the public health to such an extent as to place the board in the position of neglecting its duty and consequently any citizen could cite the board for such neglect and compel it to do its duty. (People v. Trustees of Village of Edgewater, 37 Hun, 461.) The state of affairs must, however, justify extreme measures and the board is required to show such a condition to exist. In the presence of an epidemic, where the spread is rapid and radical measures may be required for its arrest, the board has not the time to grant hearings or to hold an investigation, but must proceed at once. In case it were necessary to de-

stroy a house, clothing, merchandise or any other place or substance from which the contagion of the disease could spread and without the destruction of which, in the opinion of the board of health, the disease could not be stayed, the board can destroy, and this without an order to the owner of the property thus destroyed. It is a case of dire necessity and private advantage must give way to public needs. It is with disease in such a case as with conflagrations where whole blocks of buildings are blown up in advance of the flames to break their force and stop the fire. No time is lost in such cases by inspections and investigations but the fire marshals issue the orders and the buildings are destroyed. And the same reasoning holds good where disease is spreading rapidly. The most stringent measures must be resorted to and without loss of time. It is hardly necessary to say that in all such circumstances, in fact in all with which the health board has to deal, the decision of the board must be given only after careful consideration of the situation and its deliberations be set forth in the minutes that its actions may be ready for review if necessary.

§ 67. **Every nuisance must be considered separately.** — In passing upon nuisances, each one must be considered and acted on by itself, even where several are of the same character. Take, for instance, privy vaults in cities. Here the emanations from great numbers of these cess-pools poison the air and are serious detriments to health. In the hot weather, the air being heavy and the contents of the vaults decaying, injurious gases are given off which do not dissipate into the upper air, but float within a comparatively few feet of the ground, and are carried by air currents into dwellings. The board, complaint having been received of one of these nuisances, on inspection, finds a whole



block or a row of vaults, each as bad and dangerous to public health as its neighbor. The board must consider and act on each one separately; it cannot condemn all in one resolution, but the same method of inspection and proceeding to condemn must be taken for each separate vault. The board cannot assume in advance that all privies are or will become nuisances dangerous to health. (*Gregory v. City of New York*, 40 N. Y. 273.) The board may, however, forbid in its rules the building of vaults which experience has found are more likely to become nuisances, except in such manner as may be approved by the board, for the law (sec. 21) empowers the board to make such rules as it deems necessary for the preservation of life and health. A rule, therefore, of general application, made and published by the board to prevent or forbidding the building of privy vaults would be a perfectly proper one, and violation of such rule, when the vault was constructed in the manner proscribed by the board, would subject the person disobeying to a penalty. For boards of health, if invested by the legislature with the authority to do so, have full power to restrain the use of private property and the acts and business of all persons within the state for any purpose which is incompatible with the public health. (*Reed v. People*, 1 Park. Cr. 481; *In re Weisells*, 13 Wk. Dig. 185; *Blazier v. Miller*, 10 Hun, 435; *Polinsky v. People*, 73 N. Y. 65; *Cronin v. People*, 82 id. 318; *City of Rochester v. Collins*, 12 Barb. 559; *City of Watertown v. Mayo*, 109 Mass. 315; *People v. Hanley*, 3 Mich. 330; *Taylor v. The State*, 35 Wis. 298; *Gregory v. The Mayor of New York*, 40 N. Y. 273; *Meyer v. Special Sessions*, 12 Wk. Dig. 367; *Cox v. Special Sessions*, 7 Hun, 214.)



§ 68. Each offense should have its particular indictment. Board passes upon what is a nuisance.—If the board has made orders directing a person to abate two nuisances of which he is the maintainer, and has to prosecute to enforce obedience to the orders; if a different penalty for each offense is prescribed, the maintainer cannot be indicted for both in one indictment. Each offense should be made the cause of a separate action. (*Reed v. People*, 1 Park. Cr. 481.) The question of whether or not a nuisance exists is always one on which persons will differ. The owner of a slaughter-house or some factory classed among stench-producing industries will contend no nuisance exists. Property, or the use of it, which endangers the health or the comfort of the people, is a public nuisance (*Wood on Nuisances*, 73), and the board has to determine the fact before issuing an order. The judgment of the board in such matters will not be disturbed, unless it clearly exceeds its authority. (*Hart v. Mayor of Albany*, 3 Paige Ch. 218; *Caines v. City of Syracuse*, 29 Hun, 105; *Baker v. City of Boston*, 12 Pick. [Mass.] 183; *Mayor of Monroe v. Geispach*, 33 La. Annual, 1011; Opinion of Judge Dykman in *Turner v. Board of Health of Mt. Vernon*.) The board cannot find a matter a nuisance which, under any circumstances, is not or cannot be such at common law. (*Coe v. Schultz*, 47 Barb. 64; *Babcock v. City of Buffalo*, 56 N. Y. 268; *Mayor of New York v. Board of Health*, 31 How. Pr. 385; *Schuster v. Board of Health*, 49 Barb. 450; *Yates v. Milwaukee*, 10 Wall. [U. S.] 497; *Underwood v. Green*, 42 N. Y. 140.) By this is meant a frivolous decision that some business or condition is a nuisance of menace to health is not to stand, for the board, while having large discretionary powers (*Clark v. Mayor of*

Syracuse, 13 Barb. 35), cannot construe a nuisance out of a condition which under this or that change of circumstances, or if some event happens of which there is no immediate likelihood, will then be of menace to health.

§ 69. If municipality is maintainer of nuisance board may order it to act. Opinion of attorney-general.—If a nuisance is in a public place, such as a street or road, the board has the right to order its abatement by the maintainers, viz., the city or village authorities. As an illustration of this the following may be cited. A petition was received by the state board setting forth in affidavits that illness was caused by the leakage of a sewer into cellars. The sewer was a public one, built by the city, and the board of health notified the mayor and common council that it was a nuisance of menace to health by reason of its leaking. No attention was paid to the advice of the board to abate the nuisance and the petition to the state board was the result. The question was submitted to the attorney-general and the following opinion given:

#### OPINION OF ATTORNEY-GENERAL

ON POWER OF BOARD OF HEALTH TO LAY A DRAIN OR SEWER IN A PUBLIC STREET, WHICH IS THE ONLY MEANS OF ABATING A NUISANCE WHICH IS DANGEROUS AND A MENACE TO THE PUBLIC HEALTH, AFTER HAVING DULY REQUESTED THE AUTHORITIES OF SUCH CITY OR VILLAGE TO ABATE SUCH NUISANCE, AND A REFUSAL UPON THEIR PART SO TO DO.

#### STATE OF NEW YORK:

ATTORNEY-GENERAL'S OFFICE, }  
ALBANY, *September 24, 1890.* }

Hon. LEWIS BALCH, *Secretary of State Board of Health:*

DEAR SIR:—In reply to your verbal request for my opinion as to the power of a local board of health to lay

a drain or sewer in a public street, which is the only means of abating a nuisance which is dangerous and a menace to the public health, after having duly requested the authorities of such city or village to abate such nuisance, and a refusal upon their part so to do, I beg leave to state as follows:

By chapter 270 of the Laws of 1885, the organization of local boards of health is provided for, and when organized they have the power (sec. 3, subd. 4) "to receive and examine into the nature of complaints made by any of the inhabitants, concerning nuisances, or causes of danger or injury to life and health within the limits of its jurisdiction; to enter upon or within any place or premises where nuisances or conditions dangerous to life and health are known or believed to exist, and by appointed members or persons, to inspect and examine the same; \* \* \* and every such board of health shall have power, and it shall be its duty to order the suppression and removal of nuisances and conditions detrimental to life and health found to exist within the limits of its jurisdiction;" and (by subd. 6): "To make, and from time to time to publish, in such manner as to secure early and full publicity thereto, all such orders and regulations as they shall think necessary and proper for the preservation of life and health and the successful operation of this law; and to make, without publication thereof, such orders and regulations in special or individual cases, not of general application, as they may see fit, concerning the suppression and removal of nuisances, and concerning all other matters in their judgment detrimental to public health, and to serve copies thereof upon any occupant or occupants, and the owner or owners of any premises whereon any such nuisances or other matters aforesaid shall

exist, or to post the same in some conspicuous place on such premises."

Subd. 8. "To employ all such persons as shall be necessary to enable them to carry into effect the orders and regulations they shall have adopted, and the powers vested in them by this act, and to fix their compensation."

(§ 4.) " \* \* \* And in case of non-compliance with any order or regulation which shall have been served or posted, as provided in subdivision 6 of section 3 of this act, the said board or its servants or employees may lawfully enter upon any premises to which such order or regulation relates, and suppress or remove the nuisance or other matters in the judgment of said board detrimental to the public health mentioned in such order or regulation, and any other nuisance or matter of the description aforesaid found there existing, and the expense thereof shall be a charge upon the occupant or any or all of the occupants of said premises, or upon the person or persons who have caused or maintained the nuisance or other matter of the description aforesaid, and may be sued for and recovered with costs by said board, in the name of such board in any court having jurisdiction."

§ 5. "All expenses incurred by the several boards of health in the execution and performance of the duties imposed by this act shall be a charge only on their respective cities, villages and towns, and shall be audited, levied, collected and paid in the same manner as other city, village and town charges are audited, levied, collected and paid."

These provisions, it seems to me, give local boards of health ample power to abate nuisances; and if there is an existing nuisance dangerous to health in a street,

and the city or village authorities refuse to abate the same, it is the duty of the board of health to abate it; and I am of the opinion that if the authorities of the city or village, after having been properly served with an order to abate the nuisance, refuse or neglect to do so, the board of health may abate it; and if the laying of a sewer be the only safe and proper means of abating such nuisance, they may lay such a sewer, and may charge the expense thereof to the city or village, the city or village being the occupant of the street, within the meaning of the word as used in the act above referred to. (*Gould v. City of Rochester*, 105 N. Y. 46.)

The expenses of the board of health in laying such sewer should be audited, levied, collected and paid in the same manner as other city or village charges are audited, levied, collected and paid.

Very respectfully,

Your obedient servant,

CHARLES F. TABOR,

*Attorney-General.*

The opinion holds equally good under the present Public Health Law, as the same powers are given boards of health as under chapter 270 of 1885. The municipality can no more maintain a nuisance of menace to health than can an individual, and the board of health has supervision and power over both.

**§ 70. Physicians must report contagious diseases. Health officer the legal expert to determine the diagnosis.**—In cases of contagious disease, the physician in attendance is bound to report the fact to the board. It makes no difference what precautions he may personally have taken regarding the case, he must notify the health authorities. And when there is



a question of diagnosis, the health officer is the expert provided by law to settle the matter, and his determination is the one to be considered final. His inspection of the case can do no harm, for he is merely the official of the board, and is not necessarily in charge of the patient. (*Brown v. Purdy et al.*, 8 St. Rep. 143.) His acts in carrying out the orders of the board in this or any other case, or the acts of any other employee of the board when in pursuance of its orders, are not subject to judicial review. Officers of health boards are protected by reason of the fact that they are such officers. (*Van Wormer v. The Mayor*, 15 Wend. 262; *City of Salem v. Eastern R. R. Co.*, 98 Mass. 431.)

§ 71. **Power of board to make rules for plumbing and drainage.**—Special legislation has of late years frequently been sought to give power to health boards to make special rules and regulations for the plumbing, drainage and ventilation of buildings to be hereafter erected in the various places for which the laws were designed. But such acts are unnecessary, for boards of health have the power now to pass such rules if they consider them required for the protection of the public health. (Sec. 21.) It certainly is a measure for the preservation of life that proper plumbing be put in a house, proper drains be built to carry off the house sewage, and proper ventilation be arranged for, and the board under the general law can prepare such rules governing this work as it may consider necessary and best.

§ 72. **Health officers are state officers.**—An important decision was rendered by Judge Haight in the case of *Bamber against The City of Rochester*, reported in 63 How. Pr. 103. In this case a suit was brought against the city for certain rags destroyed by order of the board of health, but the learned judge decided the city was not lia-



ble for the acts of the board of health. That health boards are appointed or elected to perform a public service, not peculiarly local or corporate, and that the common council could not control them in the discharge of their duty. "They are public or state officers." This decision, boards of health should remember, for their duties are such as not only affect the place where they have jurisdiction, but are widespread, and on their vigilance often depends the prevention of the spread of disease to other parts of the state. While carrying out this work, considerations like these should always be before them and, in addition, the knowledge that to them is intrusted the highest interest of the people, the guarding of the public health.

## CHAPTER VI.

SECTION 73. Rules of general application (sanitary regulations recommended by the state board).

74. Circulars relating to prevention of certain diseases.

75. Certificates of births, marriages and deaths. Burial and transit burial permits. How they should be filled up.

76. Complaint of nuisance. Notice to abate. Notice of hearing on. Notice of imposition of penalty.

77. Conclusion.

§ 73. Rules of general application.—Boards of health being required to make rules of general application for the sanitary government of their several municipalities, to which full publicity is to be given, the state board has issued the following regulations and recommended their adoption. It should be borne in mind by boards of health that the law gives them, not the state board, the power to make these rules, and that these formulated by the state board are drawn as suggestions only, and are not ordered. They have been, however, carefully prepared and adoption is advised where they are applicable. Oftentimes some changes are found necessary in different localities to meet conditions there existing which are not general, and such changes are of course made by the local board having jurisdiction.

## SANITARY REGULATIONS

RECOMMENDED FOR ADOPTION BY LOCAL BOARDS OF HEALTH.

SECTION 1. Nuisances defined.—Whatever is dangerous to human life or health; whatever building, or part or cellar thereof, is overcrowded or not provided with adequate means of ingress and egress, or is not sufficiently supported, ventilated, sewered, drained,

lighted or cleaned; and whatever renders soil, air, water or food impure or unwholesome, are declared to be nuisances and to be illegal; and every person having aided in creating or contributing to the same, or who may support, continue or retain any of them, shall be deemed guilty of a violation of this ordinance, and shall also be liable for the expense of the abatement or remedy required.

§ 2. **Privies, cess-pools, etc.**—No privy-pit, cess-pool or reservoir into which any privy, water-closet, stable, sink or other receptacle of refuse or sewage is drained, shall be constructed or maintained in any situation or in any manner whereby, through leakage or overflow of its contents, it may cause pollution of the soil near or about habitations, or of any well, spring or other source of water used for drinking or culinary purposes; nor shall the overflow from any such reservoir or receptacle be permitted to discharge into any public place or in anywise whereby danger to health may be caused. And every such pit, reservoir or receptacle shall be cleaned and the contents thereof removed at such times and under such precautions as the board of health may prescribe. Violation of any of the provisions of this ordinance shall subject the offending party to a penalty of . . . . . for each day's continuance of the nuisance after due notice to abate it from an authorized officer.

§ 3. **Sewers, drains, etc.**—All house-sewers or drains for the conveyance of deleterious or offensive matters shall be water-tight, and the plans and methods of their construction shall be subject to the approval of the board of health. In streets or avenues where public sewers are or shall be constructed, the board of health may order house-connections to be made therewith.

§ 4. **House-refuse, garbage, etc.**—No house-refuse, offal, garbage, dead animals, decaying vegetable matter, or organic waste-substance of any kind, shall be thrown upon any street, road or public place, and no putrid or decaying animal or vegetable matter shall be kept in any house, cellar or adjoining outbuilding for more than twenty-four hours. Violation of any of the provisions of this ordinance shall subject the offending party to a penalty of.....

§ 5. **Filled-in or made land.**—No sunken places shall be filled, nor made land constructed, with any materials containing an admixture of putrescible animal or vegetable matter, under a penalty of ..... for each cart load, or part thereof, of such materials deposited.

§ 6. **Noxious trades.** — No person or company shall erect or maintain any manufactory or place of business dangerous to life or detrimental to health, or where unwholesome, offensive or deleterious odors, gas, smoke, deposit or exhalations are generated, without the permit of the board of health, and all such establishments shall be kept clean and wholesome so as not to be offensive or prejudicial to public health; nor shall any offensive or deleterious waste-substance, gas-tar, sludge, refuse or injurious matter be allowed to accumulate upon the premises or be thrown or allowed to run into any public waters, stream, water-course, street or public place. And every person or company conducting such manufacture or business shall use the best approved and all reasonable means to prevent the escape of smoke, gases and odors, and to protect the health and safety of all operatives employed therein. Any violation of any of the provisions of this ordinance shall subject the offending party to a penalty of ..... dollars for each offense.

§ 7. **Unwholesome food.**—No meat, fish, bird, fruit, or vegetables, milk, or anything for human food or drink, not being then fresh or properly preserved, sound, wholesome and safe for such use ; nor any flesh of any animal which died by disease, or which was at the time of its death in a sickly or unwholesome condition ; nor the carcass or meat of any calf which was at the date of its death less than four weeks old, or of any lamb which was at the date of its death less than eight weeks old, or of any pig which was at the date of its death less than five weeks old shall be brought within the limits of this municipality nor offered or held for sale as food therein. Any violation of any of the provisions of this ordinance shall subject the offending party to a penalty of ..... and by the seizure and destruction of such unsound, unwholesome, or immature food substances.

§ 8. **Slaughter-houses, markets, etc.**—No person or persons, without the consent of the board of health shall build or use any slaughter-house within the limits of this municipality and the keeping and slaughtering of all cattle, sheep and swine, and the preparation and keeping of all meat, fish, birds, or other animal food, shall be in the manner best adapted to secure and continue their wholesomeness as food ; and every butcher or other person owning, leasing or occupying any place, room or building wherein any cattle, sheep or swine have been or are killed or dressed, and every person being the owner, lessee or occupant of any room or stable wherein any animals are kept, or of any market, public or private, shall cause such place, room, building, stable or market, and their yards and appurtenances, to be thoroughly cleansed and purified, and all offal, blood, fat, garbage, refuse and unwholesome and offensive matter to be removed therefrom at least once in every twenty-four hours

after the use thereof for any of the purposes herein referred to, and shall also at all times keep all wood work, save floors and counters, in any building, place or premises aforesaid thoroughly painted or whitewashed; and the floors of such building, place or premises shall be so constructed as to prevent blood or foul liquids or washings from settling in the earth beneath. Any violation of any of the provisions of this ordinance shall subject the offending party to a penalty of ..... for each day's continuance or repetition of the offense.

§ 9. **Notification of infectious disease.**—Every householder or head of family in a house wherein any case of infectious disease may occur shall report the same to the board of health or to the health officer within twelve hours from the time of his or her first knowledge of the nature of such disease; and, until instructions are received from the said board or the health officer, shall not permit any clothing or other article which may have been exposed to infection to be removed from the house; nor shall any occupant change his residence elsewhere without the consent of the said board or health officer.

Every physician who may be called to attend a case of infectious disease shall, as soon as he discovers the nature thereof, make a written report specifying the name and residence of the patient, the nature of the disease, and any other facts relating thereto which he may deem important to the public health, and affix the date and sign his name thereto, and he shall transmit the same to the board of health within twelve hours as above provided. The diseases to be thus promptly reported are: Asiatic cholera, yellow fever, typhus and typhoid fevers, small-pox, scarlet fever, measles, diphtheria and membranous croup. Any violation of any



of the provisions of this ordinance shall subject the offending party to a penalty of.....

**§ 10. Importation of infected persons or things.**

—No person or article liable to propagate a dangerous disease shall be brought within the limits of this municipality unless by the special permit and direction of the board of health; and anyone having knowledge that such person or article has been brought within such limits shall immediately notify the said board thereof. Any violation of any of the provisions of this ordinance shall subject the offending party to a penalty of.....

**§ 11. Exposure of infected persons or things.—**

No person shall, within the limits of this municipality, unless by permit of the board of health, carry or remove from one building to another any patient affected with any contagious or infectious disease. Nor shall any person, by any exposure of any individual so affected, or of the body of such individual, or of any article capable of conveying contagion or infection, or by any negligent act connected with the care or custody thereof, or by a needless exposure of himself or herself, cause or contribute to the spread of disease from any such individual or dead body. Any violation of any of the provisions of this ordinance shall subject the offending party to a penalty of not less than.....

**§ 12. Funerals after infectious diseases.—**There shall not be a public or church funeral of any person who has died of Asiatic cholera, small-pox, typhus fever, diphtheria, membranous croup, scarlet fever or measles, without the permit of the board of health therefor; and the family of the deceased shall in all such cases limit the attendance to as few as possible, and take all precautions possible to prevent the exposure of other persons to contagion or infection. Any violation

of any of the provisions of this ordinance shall subject the offending party to a penalty of.....

§ 13. **Infectious diseases of animals.**—No animal affected with an infectious or contagious disease shall be brought or kept within the limits of this municipality, except by the permission of the board of health; and the bodies of animals dead of such disease or killed on account thereof, shall not be buried within five hundred feet of any residence, nor disposed of otherwise than as the said board or its health officer shall direct. Any violation of any of the provisions of this ordinance shall subject the offending party to a penalty of.....

§ 14. **Reports of marriages and births.**—It shall be the duty of the groom in every marriage, or the cleryman or magistrate performing the ceremony, and of the parents or custodian of every child born, to make sure that the prescribed report of such marriage or birth is presented to the board of health or its registering officer within thirty days, under a penalty of .....for failure to do so; and for each ten days of continued neglect to present such report, after the expiration of the first thirty days, an additional penalty of .....shall be incurred.

§ 18. It shall be the duty of the physician or midwife in attendance at every birth to write out and sign, upon the form prescribed by the state board of health, the certificate of such birth, and leave it with the parent or guardian of the child within.....days of such birth. Any violation of the provisions of this ordinance shall subject the offending party to a penalty of .....

§ 16. **Certificates of death and burial permits.**—Every undertaker or other person who may have charge

of the funeral of any dead person, shall procure a properly filled-out certificate of the death and its probable cause, in accordance with the form prescribed by the state board of health, and shall present the same to the designated officer or member of the board of health, and obtain a burial or transit permit thereupon, at least twenty-four hours before the time appointed for such funeral; and he shall not remove any dead body until such burial or transit permit shall have been procured. Any violation of any of the provisions of this ordinance shall subject the offending party to a penalty of .....

§ 17. It shall be the duty of the physician last in attendance upon any person who may die within the limits of the jurisdiction of this board of health, to write out and sign without delay, upon the form prescribed by the state board of health, the professional certificate of the death and send it to or leave it with the family of the deceased, or hand or send it to the undertaker in charge of the remains. In case an inquest has been required by law, the coroner shall fill out the said certificate, and if no inquest has been required by law and no physician has been in attendance, the certificate shall be filled out, setting forth the probable or believed cause of death, by some reputable person known to the officer issuing the burial or transit burial permit, and the said person shall also make affidavit to the facts set forth in the certificate, which affidavit must be attached to said certificate. Any violation of the provisions of this ordinance shall subject the offending party to a penalty of.....

§ 18. **Sextons, cemetery keepers, etc.** — Every person who acts as a sexton, or undertaker, or cemetery keeper, within the limits of this municipality, or has the charge or care of any tomb, vault, burying ground

or other place for the reception of the dead, or where the bodies of any human beings are deposited, shall so conduct his business and so care for any such place above named, as to avoid detriment or danger to public health ; and every person undertaking preparations for the burial of a body dead from contagious or infectious disease, as hereinbefore enumerated, shall adopt such precautions as the board of health may prescribe to prevent the spread of such disease. Any violation of any of the provisions of this ordinance shall subject the offending party to a penalty of.....

§ 19. **Duties and powers of health officer.**— The health officer is directed and empowered to execute and enforce all sanitary regulations of general obligation now or hereafter to be published by this board ; also to enter upon or within any premises where conditions dangerous to the public health are known or believed to exist, and to examine into the nature of complaints made by any of the inhabitants concerning sources of danger or injury to health ; and he shall preserve accurate records of his official actions and report the same to the board of health at its next meeting. And whenever, in his judgment, danger to public health shall arise requiring special regulation not of general application, he shall forthwith notify the president of the board of health, who shall thereupon convene the board to take such action as may be necessary and proper.

§ 20. **Penalties.**— Every person who willfully violates or refuses to comply with, or who resists any ordinance, order, regulation or resolution of the board of health of this municipality will be liable to the arrest, action, penalty, fine and punishment provided and declared in the Public Health Law, chapter 25 of the General Laws, 1893, of which notice must be taken.

§ 74. **Circulars relating to prevention of certain diseases.**— Diphtheria, scarlet fever and small-pox are all preventible diseases if proper measures be taken to exclude them. I am not to be understood as saying that if boards of health exercise great vigilance no more cases of these diseases will be developed. I mean that by care and precaution the spread of each and all can be stopped, and in addition, the germs left by any one case can be destroyed so thoroughly that none will remain to cause more cases when the conditions shall become favorable to their activity. As a guide and aid to local boards of health, the state board has issued the following circulars, and if attention is given to their contents, and the suggestions carefully followed, much may be done towards lessening the number of cases now reported. Small-pox is rarely found to be epidemic at any place within the state now, for so active are the health authorities in dealing with this disease when it makes its appearance, that one or two cases generally end the outbreak. Could the same decisive measures be taken against diphtheria and scarlet fever, like result would follow.

### PREVENTION OF DIPHTHERIA.

Diphtheria is a preventable disease. Its existence depends on conditions that can generally be controlled. It may appear in any community, but it should not be allowed to develop beyond the first case or cases, that make their appearance.

#### CONDITIONS ON WHICH IT DEPENDS.

Diphtheria probably always originates from a special poison which develops in the person sick with it. This special poison is given off in the breath, in the dis-



charges from the mouth, throat and nose, and in some degree, in those from the bowels and bladder.

The virus has the property of *adhering tenaciously to objects* on which it happens to alight. By reason of this, the sick room, its floor, walls, furniture, and all its contents become infected with the disease, and continue to be so until the virus is destroyed by cleansing and fumigation.

*The disease may also be carried away* by any article coming in contact with the sick, and to which the virus clings, by the clothing, bedding, eating utensils, food, toys, and also by the persons and clothing of those in attendance upon the patient.

Another important fact is that the *virus is very long lived*; articles and premises infected with it, may communicate the disease for at least several weeks; it may be transported by them with great facility, and to an indefinite distance.

A final important point is that *bad sanitary conditions favor the development and propagation of the diphtheritic virus*. It grows best in places that are damp and foul and ill-ventilated; in cellars moist by imperfect drainage, and defiled by uncleanly accumulations in the soil about it; in damp, unventilated spaces under floors; in cess-pools, drains and sewers, or any place where there is dampness, filth and imperfect access of fresh air. In large cities, the sewers furnish so favorable a place for the growth of this virus when it gets into them, and its vitality is so great under such surroundings, that their infection may become permanent; no similar conditions, however, need exist in small localities.

Diphtheria is contracted by inhalation of air containing the disease-germs coming directly from the sick, or from articles infected by them. It is also communicated



by articles passing from mouth to mouth, such as cups, spoons and toys. The articles by which it is communicated may have become infected weeks before, and possibly at some locality quite remote. It is contracted by inhaling the air of sewers, cess-pools, cellars, or any damp, foul or ill-ventilated place in which the disease-germs chance to have become planted. Children contract diphtheria much more readily than adults.

#### SUPPRESSION OF DIPHTHERIA.

Every locality is liable to have diphtheria brought into it. It will not continue long if the principal conditions on which its existence mainly depends are removed; if the sick are strictly secluded, the disease-germs destroyed, and all unsanitary conditions which favor their continued development removed.

1. **Isolation.** — Those sick with diphtheria should be isolated from every one except necessary attendants. This should be done with mild cases as well as severe ones. They should be placed in an upper, airy room, as remote as possible from other living and sleeping rooms. Needless furniture and other articles should be removed from the room. Allow the windows to be open, for the poison does not go far away in the atmosphere; give sunshine and fresh air constantly.

The attendants should remember that they carry with them the poison of the disease, and they must keep entirely away from others, especially from children, who take diphtheria most readily. No article should leave the room without cleansing or disinfection. Utensils used by the sick should be well cleansed before use by others. Food left by them should be destroyed. Bed and body clothing should, before being taken from the

room, be placed in disinfectant No. 2, boiling hot, if possible. Cats and dogs should be excluded.

The discharges from the mouth and nose must be received on cloths that can be burned, or in cups that can be disinfected. Vessels for receiving the discharges from the mouth, nose, kidneys and bowels should contain some of disinfectant No. 1 or 3, and after use should be cleansed with boiling water.

The patient must not mingle with the well until all traces of the disease have left the throat and nose. Before leaving the sick-room the body should be thoroughly washed, and fresh, uninfected clothing should be put on, leaving every thing else behind to be disinfected. Nurses must observe the same final precautions.

**2. General precautions.**—All should avoid sources of contagion. Well children had better be removed entirely from the house, but should be kept under observation, and if diphtheria develops brought home again so as not to establish a new center. Persons remaining in the house should not go to school, church or any general gathering, nor to any house where there are young persons. If the disease has secured a foothold in a locality, every case of sore throat should be regarded as suspicious and excluded from schools and from contact with other children. It would be well to make sure that milk is not taken from a dairy where the disease exists.

**3. Sanitary precautions.**—Houses should be kept clean, dry and well-ventilated; particular attention should be given to the cellar. Drain pipes and fixtures should be perfect. The premises should be well-drained, leeching cess-pools and privy-vaults removed, all decomposing accumulations of garbage or stable manure cleared away and the place made in every way clean.

These precautions are to be especially observed about domiciles where the disease exists. The condition of school-houses should not be overlooked.

4. In case of death the body should be inclosed in a sheet saturated with disinfectant No. 3, placed in a tight coffin not afterward opened, and *burial should be private* and with as little delay as possible.

#### DISINFECTION.

1. **Of the room.**— During its occupancy as a sick-room, the precautions suggested above as to destruction of disease germs attached to articles of any sort before their removal from it should be carefully observed. At the termination of the quarantine the room should be tightly closed and with all its infected contents fumigated with the fumes of burning sulphur or of chlorine, which, especially if the latter is used, should be done only by a competent person. Arrange all the contents of the room so that their surfaces are readily reached by the disinfecting gas. The room should remain closed for twenty-four hours, after which it and its contents should be aired thoroughly for several days. The woodwork should also be thoroughly washed, especially the tops of doors and windows, and solution No. 2 or 3 applied. Ceilings should be whitewashed and wall paper removed, and the walls washed with one of the disinfectant solutions.

**Sulphur fumigation.**— Roll sulphur, in the proportion of two pounds for a room ten feet square, is burned by placing it in an iron kettle, set in a tub containing a little water to guard against fire. It may be ignited by pouring a little alcohol or kerosene on it.

**Chlorine fumigation.**— Mix well, breaking up all lumps, one part by measure of black oxide of manganese

and two of common salt, and add enough water to make of the consistency of cream. A teacupful of this mixture is to be put into a large earthen vessel, as a wash-bowl, one or two of which may be placed in each room. About an equal bulk of commercial sulphuric acid is to be finally poured into each vessel, beginning with the most remote, the person retiring quickly; it is best to pour this from a pitcher; avoid inhaling the fumes by holding a handkerchief over the face.

2. **Of the premises.**—The entire house should be thoroughly cleansed. The premises also should be cleared of all unsanitary conditions, and all drains, privy vaults and sites of uncleanly accumulations drenched with solution No 1.

#### DISINFECTANT SOLUTIONS.

No. 1. Sulphate of iron (copperas), three pounds, warm water, one gallon; for the discharges. This leaves rust spots on clothing.

No. 2. Sulphate of zinc (white vitriol), four ounces; common salt, two ounces; water, one gallon. For clothing.

No. 3. Corrosive sublimate, sixty grains; water, one gallon. Caution should be had of the dangerously poisonous character of this solution; it is well, as a precaution, to color it by adding an equal quantity (sixty grains to the gallon) of permanganate of potash, with which, however, it stains fabrics, etc. To wash furniture and woodwork.

#### PREVENTION OF SCARLET FEVER

Scarlet fever is a preventable disease. It will not spread if careful attention is paid to the rules for its restriction. Parents, teachers and all who have the care

of children can do much to guard against the occurrence of infection.

#### CONDITIONS ON WHICH IT DEPENDS.

Scarlet fever is *a disease of early life*. Less than five per cent of cases occur after the age of fifteen, and two-thirds of all the deaths from it occur in the first five years of childhood. Especial care should, therefore, be taken to protect children from exposure to it.

It varies much in severity, being generally a dangerous and deadly disease, but it is sometimes so mild as to elude notice. The spread of the disease is not infrequently increased by *failure to detect these mild cases*. During the prevalence of an epidemic, cases of sore throat among school children, or children from an infected house, should be regarded with suspicion. Severe cases may originate from a mild one.

It is infectious from the beginning throughout the course of the illness, and even after all traces of the disease have apparently disappeared from the throat and skin. It is taken by contact with the sick or with articles that have become infected by proximity to them, or from the room which they have occupied. The disease may be carried away to a distance by infected clothing or other articles and so communicated, and persons who have been about the sick, even for but for a very short time, may convey the disease to others. It may probably be communicated also by milk into which the germs of the disease have found their way through proximity to the sick or their surroundings.

Scarlet fever, probably, always originates from a special poison, which develops in the person sick with it. This poison is given off in the breath, the discharges from the body and the scales from the skin. It



has the property of adhering tenaciously to objects on which it happens to alight. By reason of this the sick room, its floor, walls and all its contents, especially the bedding, clothing and other articles most closely about the sick, become infected with the disease, and continue to be so until the virus is destroyed by cleansing and fumigation. This *virus is very long lived*, so that infected articles may communicate the disease months after they become infected. Such infected articles may be the means of *carrying the disease* to another locality, possibly quite remote, and, in fact, this is the most common way for the disease to originate.

#### SUPPRESSION OF SCARLET FEVER.

Although a very infectious disease its spread can be controlled by keeping the well away from the sick, and destroying the infection before it can be scattered abroad.

**General precautions.**—All should avoid sources of contagion. It should be borne in mind that adults, although but slightly susceptible to the disease, may carry it away to others after but a momentary exposure. Those who remain in the house where there are cases of the disease, even if they never enter the sick room, should carefully avoid contact with others and should not go to school, church or any general gathering nor to any house where there are young persons. If the disease has secured a foothold in a locality, every case of sore throat, or presenting other symptoms found in scarlet fever, should be regarded as suspicious and excluded from school and from contact with other children until its character is determined. It would be well to make sure that milk is not taken from a dairy where the disease exists.



**Isolation.**—Those sick with scarlet fever should be isolated from every one except necessary attendants. This should be done with mild cases as well as severe ones. They should be placed in an upper airy room as remote as possible from other living and sleeping rooms. Needless furniture, carpets, curtains, unused clothing and other articles which can catch and retain the poison of the disease, and which may be injured by disinfection, should be removed from the room.

The attendants should remember that they carry with them the poison of the disease, and they must keep entirely away from others, especially from children, who take scarlet fever most readily. No person except those needed for the care of the sick should be allowed to visit the sick room, especially those who have the care of or come in contact with children. Cats and dogs should be excluded.

No article should be allowed to leave the room without cleansing or disinfection. Utensils used by the sick should be well cleansed before use by others. Food left by them should be destroyed. Bed and body clothing, before being taken from the room, should be placed in disinfectant No. 2 boiling hot if possible; at least it should be taken from the room wet with and afterward boiled in the solution.

The discharges from the throat and nose must be received in cloths that can be burned or in cups that can be disinfected. The discharges from the bowels and kidneys should be disinfected with one of the disinfectant solutions, and afterward buried some distance from the dwelling.

The room should be ventilated as thoroughly and constantly as possible without incurring the danger of draughts. The entire house ought to be kept clean,

dry and well ventilated. During the period of desquamation it is well that frequent inunction of the body with oil or fatty matter be performed, as by this means the scattering of the scales thrown off from the skin, which contain the contagion of the disease, may be much lessened.

Before leaving the sick-room the body should be thoroughly washed, not omitting the head, and fresh, uninfected clothing put on, leaving everything else behind to be disinfected. Nurses must observe the same final precautions. The patient should not be allowed to go to school or to mingle in any way with the public for at least five weeks after subsidence of the fever and rash.

In case of death the body should be inclosed in a sheet saturated with disinfectant 2 or 3, placed in a tight coffin, not afterwards opened, and burial should be private and with as little delay as possible.

#### DISINFECTION.

**Of the room.** — During its occupancy as a sick-room, the precautions suggested above as to destruction of disease germs attached to articles of any sort before their removal from it should be carefully observed. At the termination of the quarantine the room should be tightly closed and, with all its infected contents, fumigated with the fumes of burning sulphur or of chlorine, which, especially if the latter is used, should be done, only by a competent person, as the fumes are poisonous. Arrange all the contents of the room so that their surfaces are readily reached by the disinfecting gas. The room should remain closed for twenty-four hours, after which it and its contents should be aired thoroughly for several days. The woodwork should also be thoroughly washed, especially the tops of doors and windows, and solution

No. 2 or 3 applied. Ceilings should be whitewashed and wall paper removed, and the walls washed with one of the disinfectant solutions. In addition, all things of but little value which have been in the room should be burned, clothing and furnishings which can be so treated should be boiled, and other things exposed to fresh air for several days. The entire house ought to be cleansed and ventilated before being open to the public.

**Sulphur fumigation.**— Roll sulphur, in the proportion of two pounds for a room ten feet square, is burned by placing it in an iron kettle, set in a tub containing a little water to guard against fire. It may be ignited by pouring a little alcohol or kerosene on it.

**Chlorine fumigation.**— Mix well, breaking up all lump, some part by measure of black oxide of manganese and two of common salt, and add enough water to make of the consistency of cream. A teacupful of this mixture is to be put into a large earthen vessel, as a wash-bowl, one or two of which may be placed in each room. About an equal bulk of commercial sulphuric acid is to be finally poured into each vessel beginning with the most remote, the person retiring, quickly; it is best to pour this from a pitcher; avoid inhaling the fumes by holding a handkerchief over the face.

#### DISINFECTANT SOLUTIONS.

No. 1. Sulphate of iron (copperas), three pounds; warm water, one gallon; for the discharges. This leaves rust spots on clothing.

No. 2. Sulphate of zinc (white vitriol) four ounces; common salt, two ounces; water, one gallon, for clothing, etc.

No. 3. Corrosive sublimate (bichloride of mercury), sixty grains; water, one gallon. It should be kept in

wooden or earthen vessels. Caution should be had of the dangerously poisonous character of this solution ; it is well as a precaution to color it by adding an equal quantity (sixty grains to the gallon) of permanganate of potash, with which, however, it stains fabrics. To wash woodwork and furniture, or for other disinfectant use.

No. 4. Chloride of lime of best quality, four ounces ; soft water, one gallon. If good material is used, this is one of the most reliable disinfectants, and may be used for most purposes.

### PREVENTION OF SMALL-POX.

Small-pox is a preventable disease. It is contracted only by exposure to emanations from the body of the sick, or from articles used by them or exposed in their vicinity. It is taken only by those who are unprotected by vaccination, and is liable to appear in any place where there are unvaccinated persons. Its spread is prevented by separating the sick entirely from all but necessary attendants and by vaccinating all in their vicinity.

#### I. BINDING ON SCHOOL TRUSTEES.

ARTICLE XII, SECTION 200, CHAPTER 661, LAWS OF 1893.

**Vaccination of school children.**—No child or person not vaccinated shall be admitted or received into any of the public schools in the state, and the trustees or other officers having the charge, management or control of such schools shall cause this provision of law to be enforced. They may adopt a resolution excluding such children and persons not vaccinated from such school until vaccinated, and when any such resolution has been adopted, they shall give at least ten days' notice thereof, by posting copies of the same in at least

two public and conspicuous places within the limits of the school government, and shall announce therein that due provision has been made, specifying it, for the vaccination of any child or person of suitable age desiring to attend the school, and whose parents or guardians are unable to procure vaccination for them, or who are, by reason of poverty, exempted from taxation in such district.

## II. BINDING ON LOCAL BOARDS OF HEALTH.

### ARTICLE II, SECTION 24.

**Contagious and infectious diseases.**— Every such local board of health shall guard against the introduction of contagious and infectious diseases by the exercise of proper and vigilant medical inspection and control of all persons and things arriving in the municipality from infected places, or which from any cause are liable to communicate contagion. It shall require the isolation of all persons and things infected with or exposed to such diseases, and provide suitable places for the treatment and care of sick persons who cannot otherwise be provided for. It shall prohibit and prevent all intercourse and communication with or use of infected premises, places and things, and require, and, if necessary, provide the means for the thorough purification and cleansing of the same before general intercourse with the same or use thereof shall be allowed. It shall report to the state board of health, promptly, the facts relating to contagious and infectious diseases, and every case of small-pox or varioloid within the municipality. Health officers of villages and towns shall report in writing once a month to the state board of health all cases of such infectious and contagious diseases as may be required by the state board of health, and for such reporting the health officer



shall be paid by the municipality employing him, upon the certification of the state board of health, a sum not to exceed twenty cents for each case so reported ; and the health officer shall report annually on or before the first day of January in each year, the number of cases of consumption which have existed in his jurisdiction during that year, and for each case thus reported, he shall receive a sum not to exceed ten cents, to be paid in the same manner as the other like charges are paid. It shall provide, at stated intervals, a suitable supply of vaccine virus, of a quality and from a source approved by the state board of health, and during an actual epidemic of small-pox obtain fresh supplies of such virus at intervals not exceeding one week, and at all times provide thorough and safe vaccination for all persons in need of the same. If a pestilential, infectious or contagious disease exists in any county alms-house or its vicinity, and the physician thereof shall certify that such disease is likely to endanger the health of its inmates, the county superintendent of the poor may cause such inmates or any of them to be removed to such other suitable place in the county as the local board of health of the municipality where the alms-house is situated, may designate, there to be maintained and provided for at the expense of the county, with all necessary medical care and attendance until they shall be safely returned to such alms-house or otherwise discharged. The boards of health of the cities of New York, Brooklyn, Buffalo, Albany and Yonkers, shall report promptly to the state board all cases of small-pox, typhus and yellow fever and cholera and the facts relating thereto.



## WHAT TO DO WHEN SMALL-POX OCCURS.

1. Remove sick at once to some place provided by health or town authorities, where perfect isolation can be had. (See law governing boards of health above.) A separate place, or even a hut constructed for the purpose, should be so prepared as to be safer for the sick than any ordinary dwelling-rooms; that is, that the fresh air and sanitary care and nursing shall be the best possible, and that it shall be an apartment and locality from which the contagion will not be spread abroad.

2. If removal is impracticable place the sick in an upper, airy room, where complete seclusion can be effected. This room should be stripped of all carpets, upholstered stuff, furniture, clothing, quilts, feather beds, and all articles of any sort not absolutely necessary for the use of the sick. Let it be understood from the first that bedding, clothing, towels and cloths used by the sick should finally be burned. In such room, with open windows and an open fire, keep the sick and nurses entirely separated (quarantined) from all other persons, and allow no person to enter it or to touch the bedding or clothing used by the sick. No article should be removed from the room until cleansed, disinfected or fumigated. On recovery, the skin being entirely healed and free from all scabs, the patient and nurse must cleanse their bodies carefully, and put on entirely fresh, uninfected clothing before vacating the sick-room, leaving everything behind for disinfection.

3. Let all persons who are near the sick be immediately vaccinated afresh. No delay or objection should prevent the vaccination of all persons who have been in any manner exposed, or suspected of exposure, to the

contagion. A former vaccination, unless recent and effective, is not to be relied upon as protective. All living in the surrounding neighborhood ought to be vaccinated. If fresh vaccine is not at hand, the physician or health officer should immediately telegraph the state board of health.

4. In case of death the body should be inclosed in a sheet saturated with disinfectant solution No. 3, and put into a tight coffin which should not afterward be opened. Burial should be performed with as little delay as possible, and entirely privately.

#### INSTRUCTIONS FOR DISINFECTION.

(1.) **In the sick-room.**—The most available agents are fresh air and cleanliness. The clothing, towels, bed-linen, etc., which for any reason are not burned, should, on removal from the patient, and before they are taken from the room, be placed in a pail or tub of solution No. 2 boiling hot, if possible, and then in boiling water for washing. Prolonged heat, as in above  $212^{\circ}$  F., is the most thorough disinfectant. All vessels used for receiving the discharges from the sick should have some of disinfectant No 1 or 3 constantly therein, and after use should be cleansed with boiling water.

(2.) **Fumigation.**—At the termination of quarantine the rooms are to be fumigated with the fumes of burning sulphur or of chlorine. After the room is vacated, close it as tightly as possible, stopping all windows, chimney or other outlets. Arrange all the contents of the room so that their surfaces may be reached by the disinfectant gas. When prepared the gas is generated, which should be done only by a competent person, and the room is to remain closed for twenty-four hours, after which it and its contents should be

aired thoroughly for several days. The woodwork should also be thoroughly washed, especially the tops of doors and windows, and solution No. 2 or 3 applied. Ceilings should be whitewashed and wall paper removed and the walls washed with one of the disinfectant solutions.

**Sulphur fumigation.**—Roll sulphur, in the proportion of two pounds for a room ten feet square, is burned by placing it in an iron kettle, set in a tub containing a little water to guard against fire. It may be ignited by pouring a little alcohol or kerosene on it.

**Chlorine fumigation.**—Mix well, breaking up all lumps, one part by measure of black oxide of manganese and two of common salt, and add enough water to make of the consistency of cream. A teacupful of this mixture is to be put into a large earthen vessel, as a wash-bowl, one or two of which may be placed in each room. About an equal bulk of commercial sulphuric acid is to be finally poured into each vessel, beginning with the most remote, the person retiring quickly; it is best to pour this from a pitcher; avoid inhaling the fumes by holding a handkerchief over the face.

### III. DISINFECTANT SOLUTIONS.

No. 1. Sulphate of iron (copperas), three pounds, warm water, one gallon; for the discharges. This leaves rust spots on clothing.

No. 2. Sulphate of zinc (white vitriol), four ounces; common salt, two ounces; water, one gallon. For clothing

No. 3. Corrosive sublimate, sixty grains; water, one gallon. Caution should be had of the dangerously poisonous character of this solution.

N. B.—Solutions of corrosive sublimate should not be placed in metal receptacles, for the salt is decom-

posed and the mercury precipitated by contact with copper, lead or tin. A wooden tub or earthen crock is a suitable receptacle for such solutions.

§ 74. **Precautions against cholera.**—The following circulars were issued last year (1892), when cholera threatened to invade the state. The general directions set forth in them may well be observed by health authorities, as they apply equally to other epidemics besides cholera. The preambles to these circulars are not given here as they are not considered necessary, but the matters to which attention should be directed are published in full.

1. All streets, alleys, docks, yards, outhouses, cellars and other places where dirt collects to be cleaned. Constant inspection to be made to insure thorough compliance with orders.

2. Railroad stations should be provided with disinfecting solutions, proper sprinkling pots, and what is required to keep premises clean and constantly disinfected.

3. Closets and urinals of stations to be clean and disinfected. No accumulations of deleterious matter to be allowed.

4. Water-closets and urinals of cars to be provided with receptacles for retaining the deposits, said receptacles to have disinfectants placed therein, and to be removed at intervals in such places, and in such manner as may be determined upon for the most perfect protection against infection.

5. Medical inspection of passengers, if the train comes from an infected station or country. If the exposure has not been sufficient to warrant the detention of passengers, their names and destinations should be obtained and this department notified by telegram that it may warn the health authorities interested.

6. Passengers found ill with cholera should be removed to proper hospitals provided for their reception. Cars from which they are taken to be fumigated.

7. Should any discharges from persons ill have fallen on the floor or platform of cars or stations, such discharges should be disinfected, removed in closed buckets and the place upon which they lay thoroughly cleaned.

8. All cars coming from infected places, if remaining at the point of stopping, should be disinfected before being swept and the sweepings disinfected after collection and burned.

9. Where persons come from infected places or countries by wagon, on horseback, bicycles or on foot, inspection of the passenger or passengers should be made and disinfection of persons and clothing, or quarantine be instituted if considered necessary.

10. Vessels of all kinds to be inspected and if from infected ports fumigated and disinfected.

11. Water-closets and urinals of river and lake boats should be closed while in dock. Proper receptacles containing disinfectants can be substituted so constructed that removal can be easily made for emptying. The manner and places of deposit for the contents to be designated by the health authorities.

12. Steamboats plying on rivers or small lakes whose waters are used for water supplies, to close water-closets and urinals and substitute proper receptacles containing disinfectants which can be emptied at end of trip in such manner and in such place as may be designated by the health authorities.

13. All passengers on boats or vessels and the crews thereof, to be inspected in same manner as if provided for passengers by trains.

14. All clothing, bedding, bed-clothes, table-linen,



merchandise or other article or articles capable of retaining germs and which have been exposed thereto, to be disinfected, or if necessary, destroyed.

In addition to the above the following was published:

#### HOSPITALS.

1. Patients taken ill with cholera to be promptly and strictly isolated. When the case occurs in a crowded house, the patient to be removed to a suitable place for treatment.

2. If no building can be procured suitable for hospital purposes, tents or temporary hospitals of wood should be erected. The administrative and kitchen portions of the hospital should be separated from the wards.

3. Hospitals should be well ventilated and kept perfectly clean, and have water-tight floors.

4. If in large cities, reception hospitals for persons taken suddenly ill in the street should be established at convenient points. From there the patient should be transferred to the general hospital as soon as practicable.

#### DISINFECTANTS.

V. The following disinfectants are advised :

1. **Heat.** — Continued high temperature destroys all forms of life. Boiling for one-half hour will destroy all disease germs.
2. **Carbolic acid.** — Standard solution No. 1 is composed of six ounces of carbolic acid dissolved in an equal quantity of glycerine, and then added to one gallon of hot water. This makes, approximately, a five per cent solution (one-twentieth) of carbolic acid. The com-



mercial colored, impure carbolic acid will not answer for this purpose. Great care must be taken that the pure acid does not come in contact with the skin. When practicable, the carbolic solution should be used as hot as possible.

3. **Corrosive sublimate** (bichloride of mercury). — Standard solution No. 2 is composed of sixty grains of pulverized corrosive sublimate and sixty grains of chloride of ammonia, dissolved in one gallon of water. This solution must be kept in glass, earthen or wooden vessels (not in metal vessels.)

The above solutions are very poisonous when taken by mouth, but are harmless when used externally.

4. Chloride of lime may be used about premises in vaults and cess-pools.

## VI. Methods of disinfection:

1. **Hands and person.**—Standard solution No. 1 should be diluted with an equal amount of water. Hands soiled in caring for persons suffering from contagious diseases, or soiled portions of the patient's person, should be immediately and thoroughly washed in this solution, and then washed in soap and water. The nails should be kept perfectly clean, and the hands should always be carefully disinfected before eating.
2. **Soiled clothing, towels, napkins, bedding, etc.,** should be immediately immersed in standard solution No 1, and soaked for twelve hours, being occasionally moved about in the fluid so as to bring the disinfectant in contact with all parts. They should then be wrung out and

boiled in soapsuds for one hour. Articles such as beds, etc., that cannot be washed, should be burned.

3. **Discharges.**—Of all kinds from patients suffering from contagious diseases, should be received into earthen vessels containing standard solution No. 1. Special care should be observed to disinfect at once the vomited matter and the intestinal discharges from cholera patients, as these alone contain the dangerous germs. The volume of the disinfecting solution used should be at least five times as great as that of the discharge. After standing for at least one hour in the disinfecting solution, these discharges may be thrown into the water-closet. Bedding or clothing soiled by the discharges must be at once placed in solution No. 1, and the hands of the attendants disinfected as described above.
4. **Closets, sinks, etc.**—Each time the closet is used for infected material, at least one quart of solution No. 1 should be poured into the emptied pan and allowed to remain there. All discharges should be disinfected before being thrown into the closet. Sinks should be flushed at least once daily with the same solution.
5. **Dishes, spoons, etc.**—Used by the patient should be kept for his exclusive use, should not be removed from the room, but should be washed there, first in solution No. 1, and then in hot soapsuds. These washing fluids should afterward be thrown into the water-closet.

6. **Soiled woodwork, floors, plain furniture, etc.**— Should be thoroughly washed with solution No. 2. Upholstered furniture, curtains or carpets, which have been soiled by the discharges, should be referred to the health department for disinfection or destruction.

It is important to remember that an abundance of fresh air, sunlight, and absolute cleanliness not only help protect the attendant from infection, but also aid in the recovery of the sick.

#### VII. Food and water :

**Food and drink.**— Food thoroughly cooked and drinks that have been boiled are free from disease germs. In presence of an epidemic of cholera or typhoid fever, milk and the water used for drinking, cooking, washing dishes, etc., should be boiled just before using, and all persons should avoid eating fruit, raw vegetables and ice. Ice may, however, be used when ordered for the sick by a physician.

§ 75. **Certificates of births, marriages and deaths. How they shall be filled up.**— The certificates here given are not in the shape nor size required by the board, the page permitting neither. The subject-matter, however, is the same and each certificate is filled out in the manner desired in those returned to the health boards. The information sought by each certificate is that which experience has proved to be chiefly needed for reference, and it should be carefully given. The answers to the questions asked by the blank forms are printed in *italic* as guides to the manner

in which such certificates should be made out. Under each blank is placed its true measurement, and these sizes must be conformed to for the reasons previously stated. The stubs of certificates are not given, these containing synopses of the information set forth in the certificates and being in themselves the record retained by the persons making the certificates. The certificates should be so marked by crossing out the words not needed, as to show whether they are from a town, village or city, and the name of the county should be plainly written. Registrars or town clerks, familiar with the handwriting of those signing certificates, when the signatures are somewhat obscure, should rewrite them plainly so that no mistake may be made in the state registration. This duplication of the signature should not erase or obliterate the original, but should be made with pencil or pen anywhere on the margin of the certificate so as to call attention to the original and enable the state registrar to enter the name correctly.



[*Endorsement on back of this certificate.*]

## BIRTH RETURN.

---

By whom, *D. Smith.*

Name of Child in full, *James Doe.*

When Born, *May 1st, 1893.*


Parents' Names, (Mother,) *Margaret Roe.*

(F.) *Thomas Doe.*

If the "given" name is not reported, it should be certified as soon as the child receives its full name. The proper forms (blanks) for attesting and returning the delayed "given" name can be obtained as directed below.

---

NOTE. — Birth Returns and all Blanks are to be procured of Town, Village and City Boards of Health, for the Registry of Births, Marriages and Deaths.

 This Certificate is to be sent to the State Bureau of Vital Statistics on or before the 15th of the next month, after its date.

[Size of blank,  $7\frac{3}{4}$  by 5 inches.]



# CERTIFICATE OF MARRIAGE.

In the Town <sup>1</sup>(Village) City of *New Scotland*, County of *Albany*.

STATE OF NEW YORK.

*This is to Certify*, That *John Doe* and *Margaret Roe* were joined in marriage in our presence, in accordance with the Laws of the State of New York, on this *10th* day of *January*, 1893, at *New Salem, N. Y.*

Witnesses to the Marriage :

*JAMES HENRY,*

*THOMAS AMES.*

Attest :

*WILLIAM BROWN,*

Official Station, *Pastor Presbyterian Church,*

Residence, *New Salem, N. Y.*

i. Village and city to be crossed out.

This Return of Marriage should be made to, and registered by, the Authorities specified by Law.  
This Certificate is to be sent to the State Bureau of Vital Statistics, on or before the 15th of the month, after its date and local registry.

[*Endorsement on back of this certificate.*]

Form 7.

# To the Bureau of Vital Statistics,

STATE OF NEW YORK.

Registered  
Number.

## RETURN OF A MARRIAGE

In the Town <sup>1</sup>(Village) City of *New Scotland*, County of *Albany*.

1. Full Name of GROOM, *John Doe*.
2. Place of Residence, *New Salem, N. Y.*
3. Age next Birthday, *31* years. ....
4. ....
5. Occupation, *Carpenter*.
6. Place of Birth, *Albany, U. S.*
7. Father's Name, *Richard Doe*.
8. Mother's Maiden Name, *Jane Evans*.
9. No. of Groom's Marriage, *First*.
10. Full Name of BRIDE, *Margaret Roe*.  
Maiden Name, if a Widow. ....
11. Place of Residence, *New Salem, N. Y.*
12. Age next Birthday, *19* years. ....
13. ....
14. Place of Birth, *New Salem, N. Y.*
15. Father's Name, *Thomas Roe*.
16. Mother's Maiden Name, *Margaret Brown*.
17. No. of Bride's Marriage, *First*.

N. B.—At Nos. 4 and 13: if of other than the White Race, specify it. A Nos. 9 and 17 state whether 1st, 2d, 3d, &c., marriage of each. The signatures below of Bride and Groom, should be written out in full for the "given" and family names.

Dated at *New Salem, N. Y.*, *January 10th, 1893*.

We, the Groom and Bride named in the above Certificate hereby certify that the information given is correct, to the best of our knowledge and belief.

*JOHN DOE*, (Groom.)  
*MARGARET ROE*, (Bride.)

Signed in presence of *JAMES HENRY*,  
and *THOMAS AMES*.

1. Village and city to be crossed out.

[Size of blank. 9¾ by 4¾ inches.]

## CERTIFICATE OF DEATH,

In the Town (Village) City of *New Scotland*.

1. Full Name of Deceased (If an Infant not named, give parents' names.) *John Doe*.
2. Age, *30* years, *5* months, *10* days. Sex, *M*. Color (Race, if other than the *White*). . . . .
3. Single, Married, Widowed (Cross out words not required in this line.) 4. Occupation, *Laborer*.
5. Birthplace (and State or Country.) *England*. (How long in the United States, if of foreign birth.) *20* years.
6. Father's Name and Birthplace, *Richard Doe*. (State or Country.) *England*.
7. Mother's Name and Birthplace, *Mary Roe*. (State or Country.) *England*.
8. Place of Death (If an institution, state its name.) *New Salem*. (How long resident here.) *15* years. (If dying away from Home, give Home Residence below.)
9. Date and Hour of Death :—Died on the *15th* day of *January*, *1893*, at about *10 A. M.*
10. I hereby report this Death, and certify that the foregoing statements are true according to the best of my knowledge.

(Signature and residence of Reporter.) *JOHN SMITH*, . . . . .

11. I Hereby Certify, That I attended the deceased from *December 30th, 1892*, to *January 15th, 1893*, that I last saw him *January 15th, 1893*, that he died on the *15th* day of *January, 1893*, about *10 o'clock, A. M.*, and that to the best of my knowledge and belief the cause of his death was as hereunder written :

## CAUSE OR CAUSES OF DEATH.

Chief and Determining, *Phthisis*.Consecutive and Contributing, *Hemorrhage*.

\* INSTRUCTIONS.—Under "cause or causes of death" insert remote, immediate, and concurring causes. For instance, insert "measles and pneumonia," or "difficult labor, peritonitis, and septicemia," or "scarlet fever, nephritis, dropsy, and coma," in cases presenting these phenomena.

† If the true cause of death is not certainly known, insert names of symptoms with a cross, thus: "Convulsions and coma X; paralysis of the heart X," etc.

No. of Burial Permit, *29*.Place of Burial, *Protestant Cemetery*.Date of Burial, *January 19th, 1893*.Name and Residence of Undertaker, *Thomas Jones*.Witness my hand, this *16th* day of *January, 1893*.(Signature,) *JAMES BROWN, M. D.*,Residence, *New Salem*.

The undertaker should secure the complete filling out of the first portion of this certificate by the head of the family, or other responsible person, and should then obtain the medical certificate from the attending physician.

Form 5.  
No. of corresponding Entry in  
Register Book of Deaths to be in-  
serted here by the Registrar.

29

CAUSE OR CAUSES OF DEATH.	Duration of Disease in			† The duration of each Disease, when given, is reckoned until death.
	Years,	Months,	Days, or Hours, †	
Chief and Determining, <i>Phthisis</i> .	5	6	....	....
Consecutive and Contributing, <i>Hemorrhage</i> .	....	....	....	....

[*Endorsement on this certificate is as follows:*]

REPORT OF A DEATH.

---

From *William Wilson, Town Clerk.*

Name of Deceased, *John Doe.*

Date of Death, *January 15th, 1893.*

In the Town (Village) City of *New Scotland,*

County of *Albany.*

Name and P. O. Address of person who gave the Permit of Burial,

*THOMAS ADDIS, J. P.*

---

NOTE.—Certificates of Death and all blanks are to be procured of City, Village and Town Boards of Health, as provided by the law for the Registry of Marriages, Births and Deaths.

☞ This certificate when filled out, is to be registered without delay, and forwarded to the State Bureau of Vital Statistics, Albany, on or before the 15th of the next month

[Size of blank 8 1-16 by 7 3-16 inches.]

Where a body is to be buried within the limits of the county, the following is the form of burial permit. Permits to bury are granted by any person authorized to by the board of health having jurisdiction. It is often well in a large township for the board to designate more than one person to issue these permits, as it saves long drives to obtain them by the undertaker. If this is done by the board, the persons authorized by it to issue the permits should be instructed to promptly forward the death certificate, on which the permit is granted, to the local registrar, that he may enter it in his book and forward it to the state board, as required by the latter's rules.

It may become necessary to transport for burial a body of a person who died of a contagious disease. All public carriers are by the intent of the law forbidden to receive such a corpse, and all boards of health, or those having power to issue, under the authority of a board, transit burial permits, must not so issue these, unless the remains are properly confined in some metallic substance, and the coffin so sealed that escape of contagion is impossible. The ordinary metallic casket is an expensive affair and not within the means of many. To comply with the law (§ 23), the box in which the coffin is placed can be lined with tin or zinc, and a lid of the same material soldered on before the box top is screwed down. Such a lined box is as safe as a mettalic coffin, and the cost is very much less, while the protection against contagion is equally good. To further insure that no danger shall be by any chance given by the corpse, it should, before being placed in the coffin, be wrapped in a sheet soaked in a strong solution of carbolic acid. The transit permit should bear upon its face, written there by the person granting the permit, a

statement that all precautions in accordance with law have been taken to insure the safety of those having to handle the coffin. The simplest form for such a statement is, "this body is inclosed in a metallic coffin as required by law," for the lining of the box with zinc or tin makes it practically a metallic coffin, and as the transit permit bears on it the name of the disease from which the patient died, and as all are generally familiar with the names of contagious diseases, the statement of the issuing officer is a guarantee that all precautions have been taken and the provisions of law fully complied with.



Form 5.

STATE OF NEW YORK.

## BURIAL PERMIT.

In the Town of (Village) City of *New Scotland*, County of *Albany*.

*New Salem*, (Dated) *January 1, 1893*.

The Certificate of Death having been furnished to me, as required by the Laws of this State, permission is hereby given for the Burial of *John Doe*, age 20, who died at (City or Township,) *New Salem, New Scotland*, in the County of *Albany*, on *28th December, 1892*; the cause of death being *Pneumonia*. Place of Burial, *Protestant Cemetery*.

Undertaker or person in charge of Burial, } *THOMAS JONES*, { (Signed by) *GEORGE BROWN*,

Residence, *New Salem*.

(Official title,) *Health Officer*.

THIS PERMIT MUST ACCOMPANY THE BODY TO ITS BURIAL.

1. Village and city to be crossed out, *New Scotland* being a town.

[*Endorsement on the back of this permit.*]

## BURIAL PERMIT.

---

Name of Deceased, *John Doe.*

Date of Death, *December 28th, 1892.*

Cause of Death, *Pneumonia.*

In the Town (Village) City of *New Scotland*, County of *Albany*.

NOTE.—This permit is only to be issued for a burial within the county where the death takes place, and is to be kept by the cemetery keeper where the body is buried. It is to be issued on the filing of a death certificate, certified to as required by Section 23 of Chapter 661, Laws of 1893.

---

NOTE.—Burial Permits and all Blanks are to be procured of Town and Village Clerks and Boards of Health, for the Registry of Births, Marriages, Deaths and Burials.

1. Village and city to be crossed out.

[Size of blank,  $7\frac{3}{4}$  by  $3\frac{3}{4}$  inches.]

(See back of this Coupon.)


## SPECIAL COUPON FOR CITY TRANSIT WHEN REQUIRED.

Special Coupon No. Three to Transit Permit No. 15, of the body of *Richard Roe*, who died at *New Salem, N. Y.*, and is to be buried at *Newtown*.

Permit issued (Date,) *January 10th, 1893*, at *New Salem, Albany Co., N. Y.*, for transit through the city of *New York*.

Signed, *THOMAS ADDIS*,(Official Title,) *Justice of the Peace*.

Before this body leaves the city of *New York*, through which it is in transit, the ferry or bridge master or transport agent will tear off this coupon and send it to the Health Department of the city, as its regulations may require.

 This Permit must in all cases accompany the body to its destination.

STATE OF NEW YORK.

Form 6.

## TRANSIT PERMIT.

[For Public Carriers.]

R. R. Agents  
And All Other Carriers  
See Back of Permit.

In the Town (Village) City of  
*New Scotland*, County of *Albany*,  
*January 10th, 1893*.

Permission is hereby given to remove the remains of *Richard Roe*, aged *50 years*, who died at (City, or township and County,) *New Salem, Albany Co.*, on the *8th* day of *January, 1893*; the cause of death being *Pneumonia*, and a Transit Permit being asked for burial at *Newtown*, in the State of *New York*.

(Signed by) *THOMAS ADDIS*,(Official title,) *Justice of the Peace*,(P. O. address,) *New Salem, N. Y.*

Name of Undertaker or person in charge of  
the Transit,

} *THOMAS JONES.*

[Size of blank, 13¼ by 4 inches.]

Coupon No. Two, to Transit Permit of (Name,) *Richard Roe*, who died at *New Salem*.

Before this body leaves... ..the carrier or transportation agent will tear off this coupon. If otherwise detached from the permit the coupon must not be received. (See back of permit.)

Coupon No. One, to Transit Permit of (Name,) *Richard Roe*, who died at *New Salem*.

Before this body leaves... ..the carrier or transportation agent will tear off and keep this coupon. If otherwise detached from the permit the coupon must not be received. (See back of permit.)

(Back of Special Coupon.)

When a body from another State or City is in transit for burial, **beside the transport coupon** some cities, like New York, require that the ferry or transport agent should tear off and return a coupon to their health department, in order that it may have a record. This special coupon is in such cases to be given to the ferry or bridge master or transport agent. We therefore add to the usual coupons 1 and 2, this special No. 3, for such use when required. When not needed, this coupon should not be given out or should not be signed by the officer issuing the permit.

(Back of Transit Permit.)

**TRANSIT PERMIT.**

Issued in the Town (Village) City of *New Salem*, County of *Albany*.

Issued by *Thomas Addis, J. P.*

To whom issued, *Thomas Jones*.

Name of Deceased, *Richard Roe*.

Date of Death, *January 8th, 1893*.

Name of person or carrier in charge, *James Roe*.

Date of Transit, *January 9th, 1893*.

Railroad and Steamboat Agents, Ferry-Masters, and all Carriers that convey the remains over the limits of the county where the death occurred, will retain one of the coupons hereto attached, and deliver the body only to the persons holding this permit. The name of the deceased must appear on the coupons, which will be returnable to the city or place through or out of which the body is first conveyed, or to such authority as may be directed by the person who issued the permit.

The first coupon should be taken by the carrier who transports the body from the county where the death occurred; and the second should be taken by carrier or agent of transportation upon the route beyond said county, and it may be so taken at either terminus of the distance over which the second stage of transportation extends, as the local sanitary regulations may require; but whoever detaches and takes said second coupon must write across the back of the permit, as well as upon the second coupon itself:—

Second coupon taken at (insert name of place or station) by (insert name and title of person.)

Such an indorsement will answer instead of further coupons wherever the body is conveyed; and the permit is to be surrendered at the place of burial. It, as well as every coupon should be preserved.

Second Coupon taken at .....  
by .....

(Back of Second Coupon.)

**SECOND** } Taken at.....  
**COUPON** } by .....

(This is filled by the Baggage Master.)

(Back of First Coupon.)

**FIRST COUPON.**

Blank for still births are provided. These are not forwarded for registration in the State records, and are not generally entered in the local register, but are filed by the registrar of the local board for reference if needed. The law requiring a permit to bury to be issued only on the filing a certificate of death, the use of these blanks becomes necessary. The following is the form:

## Form 2.

N. B.—No remains of the Dead-Born should be interred, or disposed of in any other manner, without a Permit therefor having been obtained from this Bureau, such permit to be granted upon the presentation of the proper Certificate.

## RETURN OF A STILL-BIRTH.

In the *Town of New Scotland, County of Albany, N. Y.*

The death of an infant that has breathed must not be returned as a STILL-BIRTH; such deaths should be certified in the usual manner, after returning the birth-record.

Name of Mother, *Jane Smith.*

Name of Father, *Thomas Brown.*

Place of Birth, *New Salem.*

Residence of Mother, *New Salem.*

Period of Utero-gestation, *Full term.*

Date of this Birth, *January 1st, 1893.*

Sex, *F.* Color, *W.*

Nativity of Mother, *U. S.* of Father, *Scotland.*

Cause of Dead-Birth, (if known,) *Unknown.*

Residence of Medical Attendant, *New Salem.*

Signature of person } *Thomas Brown.*  
making this return, }

Residence do *New Salem.*

Date, *January 2, 1893.*

Undertaker, *Thomas Jones.*

Place of Burial, *Protestant cemetery.*

[Size of blank, 6 1-16 by 4¼ inches.]

**§ 76. Complaint of nuisance. Notice to abate. Notice of hearing on. Notice of imposition of penalty.**—The following blanks are authorized by the State board and explain themselves. It will be remarked in the notice of hearing before the board to which the maintainer of a nuisance is cited in order to show why he has not obeyed the first order to abate and to show cause why the board should not condemn the condition as one of menace to health, that it is stated as one of the subjects his attention is called to, that the board will go on and abate the nuisance under the power granted by law. This is necessary to add if the board does not intend to stop with the mere notification to abate the subsequent condemnation of the nuisance. It gives notice to the maintainer that if he fails to obey the order, the board will enter upon his premises and perform such work as is necessary to render them of no danger to the public health and that it will sue him for the cost of such work or sell his property to pay for it if he is not good for the amount, for the notice reads the board will abate the nuisance “as provided for in chapter 661, Laws of 1893.”



[1.]

## COMPLAINT OF A NUISANCE.

---

'Village [or Town] of *New Scotland*, ss.

TO THE BOARD OF HEALTH OF SAID *Town*:—Take notice that there is, upon the premises owned by *John Doe*, of *New Salem*, at *his Store on Main* [Street or road] a certain *privy vault*, and I hereby complain of the same as a nuisance.

Dated at *New Salem*, N. Y.,  
this 1st day of *February*, 1893. } }

*RICHARD ROE*, Complainant.

I. Village to be crossed out.

[*Endorsement on the back of this complaint.*]

# BOARD OF HEALTH.

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## COMPLAINT OF NUISANCE.

*Richard Roe*, Complainant.

*Privy vault* at *Main Street* [or road].

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To the Board of Health of *New Scotland*:

I certify that on the *2d* day of *February*, *1893*,  
I received the within complaint, and that on the  
*3d* day of *February*, *1893*, I examined the premises  
complained of, and found a *privy vault* full and  
allowing the escape of its contents upon the ground.

Dated this *5th February*, *1893*.

*J. JONES*,  
Health Officer.

Filed *February 5*, *1893*.

*G. BROWN*,  
Secretary.

[2.]

*Town of New Scotland, N. Y., February 6, 1893.*

To *John Doe*:

You are hereby required within three days to abate a nuisance on your premises on *Main Street*, in *New Salem*, viz.: a *privy vault*, or the same will be done and the expense thereof collected from you, together with the penalty of neglect in relation thereto.

By order of Board of Health of the town of *New Scotland*.

*J. JONES,*

Health Officer.

[Size of blank, 8½ by 3½ inches.]

[4.]  
Board of Health of the Town of New Scotland.

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## Notice for a Hearing before this Board.

In the case of the Complaint and Order concerning: *a privy vault complained of as a nuisance of menace to health.*

To *John Doe*:

You are hereby notified that a hearing concerning the matter above referred to, will be given by this Board of Health on *Tuesday, the 15th day of February, 1893*, at *Smith's Hotel, New Salem*, at which hearing you are cited to appear, to show cause why *the said vault should not be condemned as a nuisance, of danger to the public health*, and the board of health abate the said nuisance as provided for in chapter 661, Laws of 1893.

Dated at *New Salem*,  
*February 12, 1893.*

By order of the Board,  
  
*G. BROWN*,  
Secretary.

[Size of blank, 5½ by 8½ inches.]

[5.]  
Board of Health of Town of New Scotland.

## Notice of the Imposition of a Penalty.

In the case of the Complaint and Order concerning: *a privy vault found to be a nuisance of menace to health.*

To *John Doe*:

The fact appears upon the record of this legally constituted Board of Health, of the *Town of New Scotland*, that after complaint of a nuisance upon your premises had been duly filed in the office of this Board, and an order and notice for its abatement and prevention had been duly served upon you, and a hearing had before said Board, notice of which to you was duly made, and now further the fact is duly reported to this Board that said order and notice have not been complied with by you.

Therefore, take notice that this Board of Health has on the *20th day of February, 1893*, imposed upon you a penalty of *fifty* dollars in accordance with authority given to the Board, under the laws of this State, for your failure to comply with the Board's said order and regulation.

This penalty is required to be immediately paid to the Treasurer of the *Town of New Scotland*, and if not so paid, it will be collected as provided for in Chapter 661 of the laws of 1893.

Dated at *New Salem, N. Y.*,  
*February 20th, 1893.*

*G. BROWN*,  
Secretary.

[Size of blank, 8½ by 5½ inches.]

§ 77. **Conclusion.** — As said in the preface, this little work is given as a practical manual for practical men, who desire to do their duty when serving their fellow townsmen as members of boards of health. It is not a treatise on hygiene, or a text-book on health laws, or decisions rendered by courts on health matters. There are other and better works devoted to these subjects, much more full and complete than this manual could hope to be. But from the numerous letters received asking for some simple guide for health boards and health officers grew the thought of putting into compact form the oft repeated advice and instructions written to local health authorities concerning their various duties. It was believed that such a manual as is here presented would be found of service to many, and if it aids those charged with the not always pleasant work of carrying out the laws for guarding the public health in the important work intrusted to them, the aim of the author will have been reached. If among those who may read this book there be any who think fuller explanations should be given or more examples set forth; in short, who may have hints to offer which would tend to add to its usefulness, the author would gladly hear from them and thankfully receive their suggestions.



## Chap. 661.

AN ACT in relation to the public health, constituting chapter twenty-five of the General Laws.

APPROVED by the Governor May 9, 1893. Passed, three-fifths being present.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows :*

## CHAPTER XXV OF THE GENERAL LAWS.

## THE PUBLIC HEALTH LAW.

- ARTICLE 1. State board of health (1-12).  
2. Local boards of health (20-32).  
3. Adulterations (40-50).  
4. Tuberculosis and glanders (60-64).  
5. Potable waters (70-74).  
6. Quarantine at the port of New York (80-90).  
7. The health officer of the port of New York (100-131).  
8. Practice of medicine (140-153).  
9. Practice of dentistry (160-164).  
10. Veterinary medicine and surgery (170-172).  
11. Pharmacy (180-190).  
12. Miscellaneous provision (200-210).

## ARTICLE I.

## STATE BOARD OF HEALTH.

- SECTION 1. Short title.  
2. State board of health.  
3. Officers; meetings; by-laws.  
4. General powers and duties of board.  
5. Duties with respect to vital statistics  
6. Nuisances.  
7. Overflow of water from the canals.

SECTION 8. Employment of local boards and experts.

9. Examination and inspection of public works.

10. Acquisition of land by state board.

11. Power of state board where municipality fails to establish board of health.

12. Annual report.

SECTION 1. **Short title.**—This chapter shall be known as the Public Health Law.

§ 2. **State board of health.**—There shall continue to be a state board of health of nine members, three appointed by the governor, by and with the advice and consent of the senate, to be known as health commissioners, to hold office for three years; three ex-officio members, consisting of the attorney-general, the state engineer and the health officer of the port of New York, and three members to be designated and appointed by the governor, one of whom shall be a health commissioner of the board of health of New York city, and two to hold office for three years each, who shall be members or commissioners, or who shall have been members or commissioners of health of regularly constituted and organized boards of health of the other cities of the state. The appointment to or acceptance of office under this section shall not be deemed to vacate any office held by the person appointed in any board of health of any city of the state.

§ 3. **Officers; meetings; by-laws.**—The board shall elect annually from its members a president. It shall elect a person of skill and experience in public health duties and sanitary science, to be the secretary and chief executive officer of the board. He shall hold office for three years, but may be removed by a majority vote of the board for cause after a hearing had. He shall keep a record of the acts and proceedings of the

board, perform and superintend the work prescribed for the state board in this chapter, as directed by said board and discharge such other duties as the board may direct. He shall receive an annual salary of four thousand five hundred dollars and his necessary expenses. No other member of the board shall receive any compensation, except his actual traveling or other expenses. The board shall employ such clerical and other assistance as it may require and for the payment of which the legislature may have made provision. The board shall have an annual meeting at Albany in the month of May, and meetings during the year whenever deemed necessary by it, and as often at least as once in three months. Five members shall constitute a quorum. The board shall adopt by-laws for the transaction of its business, and provide for the appointment of committees, and delegate to them power and authority to do the work committed to them.

§ 4. **General powers and duties of board.**— The state board of health shall take cognizance of the interests of health and life of the people of the state, and of all matters pertaining thereto. It shall make inquiries in respect to the cause of disease, especially epidemics, and investigate the source of mortality, and the effect of localities, employments and other conditions, upon the public health. It shall obtain, collect and preserve such information relating to mortality, disease and health as may be useful in the discharge of its duties or may contribute to the promotion of health or the security of life in the state. It may issue subpoenas, compel the attendance of witnesses, administer oaths to witnesses and compel them to testify in any matter or proceeding before it, or any member of the board authorized by its order to hear or investigate any such matter or proceed-

ing, and a witness may be required to attend and give testimony in a county where he resides or has a place of business, without the payment of any fees. The state board of health may reverse or modify an order, regulation, by-law or ordinance of a local board of health concerning a matter which in its judgment, affects the public health beyond the territory over which such local board has jurisdiction; and may exercise exclusive jurisdiction over all lands acquired by the state for sanitary purposes. Every member of such state board and every person authorized by it so to do, may, without fee or hindrance, enter, examine and survey all grounds, erections, vehicles, structures, apartments, buildings and places.

§ 5. **Duties with respect to vital statistics.**—The board shall have the general supervision of the state system of registration of births, marriages, deaths and prevalent diseases, and shall maintain at the capital a state bureau of vital statistics. It shall prescribe and prepare the necessary methods and forms for obtaining and preserving such statistics, and to insure the prompt and faithful registration of the same in the several municipalities and in the state bureau. It shall from time to time recommend such forms and such amendments of law as shall be deemed necessary for the thorough organization and efficiency of registration of vital statistics throughout the state, as supervised by such board, the clerical duties and safe-keeping of the state bureau shall be provided for by the comptroller, who shall also provide and furnish such stationery as such board shall require in the discharge of its duties. If defects exist in any registration under the supervision of a local board of health, the state board shall notify the local board that such defects must be amended and prevented

within one month from the date of the notice. If such defects are not so amended or prevented, the state board shall take control of such registration and the record thereof, and enforce the rules and regulations in regard thereto, and secure a complete registration in such municipality, at the same cost to the municipality as if done by the local board, and such control shall continue until the local board satisfies the state board that it will make such record and registry complete, as required by law. A copy of any record or registry in the office of the state board, duly certified by the president or secretary of the board to be a true copy thereof, shall be presumptive evidence in all courts and places of the facts therein stated. The board shall prescribe and prepare the necessary methods, forms and rules regulating the issue of transfer permits, by local boards of health, for the transportation of corpses for burial outside of the county where death occurred and the use of such permits. It shall require a coupon to be attached to every such permit to be detached and preserved by every common carrier, or person in charge of any vessel, car or vehicle, to whom any such corpse shall be delivered for transportation.

§ 6. **Nuisances.**—The state board of health shall have all necessary powers to make examinations into nuisances, or questions affecting the security of life and health in any locality. Whenever required by the governor of the state, it shall make such an examination and shall report the results thereof to the governor, within the time prescribed by him therefor. The report of every such examination, when approved by the governor, shall be filed in the office of the secretary of state, and the governor may declare the matters public nuisances, which may be found and certified in any such



report to be nuisances, and may order them to be changed, abated or removed as he may direct. Every such order shall be presumptive evidence of the existence of such nuisance; and the governor may, by a precept under his hand and official seal, require the district attorney, sheriff and other officers of the county where such nuisance is maintained, to take all necessary measures to execute such order and cause it to be obeyed, and the acts of any such county officer in the abatement of any such nuisance, reasonable or necessary for such abatement, shall be lawful and justifiable and the order of the governor a sufficient protection to such officer. The expense of such abatement shall be paid by the municipality where the nuisance occurs, and shall be a debt recoverable by such municipality of all persons, maintaining it or assisting in its maintenance, and a lien and charge upon the lands upon which the nuisance is maintained, which may be enforced by a sale of such lands to satisfy the same.

§ 7. **Overflow of water from the canals.**—Whenever water escaping or discharged from any of the canals of the state, through water gates, spillways or otherwise, shall overflow adjacent lands, or any creek or stream receiving such waters, or collect in stagnant pools along the canal or any such creek or stream to such an extent as to cause disease or sickness to the inhabitants of the vicinity, any three of such inhabitants may make a written complaint thereof under oath to the state board of health, setting forth the extent of the injury to the public health, so far as is within their knowledge, and the length of time the disease or sickness has existed, which shall be accompanied by a verified certificate of a practicing physician of the vicinity, stating the facts known to him, pertaining to the allegations of the com-



plaint. Upon receipt of such complaint, the state board of health shall forthwith examine into the facts and circumstances therein set forth, and may call on the state engineer to make such surveys as they may require for their information, who shall make the same without delay, and if such board shall be satisfied that such disease or sickness exists, and is caused by waters of the canal escaping or discharged therefrom, it shall so report to the superintendent of public works, without unnecessary delay, who shall forthwith abate the cause of such disease or sickness.

**§ 8. Employment of local boards and experts.**

— Whenever requested by the state board of health, any city board of health in this state may appoint one of its members as its representative upon the state board during the examination of any nuisance, or for the purpose of determining whether a public nuisance exists, and such representative shall have power to take part in such examination, and shall have a seat in the state board and be entitled to take part in all of its deliberations during such examination, but without right to vote. The state board may from time to time employ competent persons to render sanitary service, and make or supervise practical and scientific investigations and examinations requiring expert skill, and prepare plans and reports relative thereto.

**§ 9. Examination and inspection of public works.**

— All persons having the control, charge or custody of any public structure, work or ground, or of any plan, description, outline, drawing or chart thereof or relating thereto, made, kept or controlled by or under any public authority, shall permit and facilitate the examination, inspection and copying thereof by any member of such state board of health, or by any person authorized

by it to make such examination or inspection of such copies.

**§ 10. Acquisition of land by state board.**— If the state board of health or the health officer of the port of New York shall certify to the commissioners of the land office that by reason of sudden emergency the acquisition of any land is immediately necessary for quarantine or other purposes to prevent great danger to the public health, and such commissioners are satisfied that such action is necessary such commissioners may acquire by purchase or by condemnation, in the name of the people of the state of New York, such land as in their judgment is necessary and suitable for such purposes.

**§ 11. Power of state board where municipality fails to establish board of health.**— If any municipal corporation, authorized by law to establish a local board of health, shall omit to do so, the state board of health may, in such municipality, exercise the powers of a local board of health and appoint a health officer thereof and fix his duties and compensation. The compensation of such health officer and the expenses lawfully incurred by him and by the state board of health in such municipality shall be a charge upon and paid by such municipality until such time as a local board of health shall be established therein, whereupon the jurisdiction of such health officer and of the state board of health conferred by this section shall cease.

**§ 12. Annual report.**— The board shall annually, on or before the first Monday in February make a written report to the governor upon the vital statistics and sanitary conditions and prospects of the state. Such report shall set forth the action of the board and of its officers and agents and the names thereof during the past year, a detailed statement of all moneys paid out by or on ac-

count of the board and the manner of its expenditure during the year, and other useful information, and shall suggest any further legislative action or precaution deemed necessary for the better protection of life and health.

## ARTICLE II.

### LOCAL BOARDS OF HEALTH.

- SECTION 20. Local boards of health.
21. General powers and duties of local boards of health.
  22. Vital statistics.
  23. Burials and burial permits.
  24. Contagious and infectious diseases.
  25. Nuisances.
  26. Removal of nuisances.
  27. Expense of abatement of nuisances a lien upon the premises.
  28. Manufactures in tenement houses and dwellings.
  29. Jurisdiction of town and village boards.
  30. Expense, how paid.
  31. Mandamus.
  32. Exceptions and limitations as to cities of New York, Brooklyn, Buffalo, Albany and Yonkers.

§ 20. **Local boards of health.**—There shall continue to be local boards of health and health officers in the several cities, villages and towns of the state. In the cities except New York, Brooklyn, Buffalo, Albany and Yonkers, the board shall consist of the mayor of the city, who shall be its president, and, at least, six other persons, one of whom shall be a competent physician, who shall be appointed by the common council, upon the nomination of the mayor, and shall hold office for three years. Appointments of members of such boards

shall be made for such shorter terms as at any time may be necessary, in order that the terms of two appointed members shall expire annually. The board shall appoint a competent physician, not one of its members, to be the health officer of the city. In villages the board shall consist of not less than three nor more than seven persons, not trustees of the village, who shall be appointed at the first meeting of the board of trustees of such village after the next annual election of the village; the members of said board of health shall at their first meeting divide themselves by lot into three classes whose terms of office shall expire respectively in one, two and three years from the annual election held prior to their appointment; from and after the appointment of said board as above provided, the appointment of the successors of said members shall be made immediately after the annual elections of said village. Every such village board shall elect a president and appoint a competent physician, not a member of the board, to be the health officer of the village. In towns the board of health shall consist of the town board and another citizen of the town of full age, annually appointed by the town board at a meeting to be held by it within thirty days after the annual town meeting. Such board of health shall annually appoint a competent physician, resident of the town, to be the health officer of the town. If the proper authorities shall not fill any vacancies occurring in any local board within thirty days after the happening of such vacancy, the county judge of the county shall appoint a competent person to fill the vacancy for the unexpired term, which appointment shall be immediately filed in the office of the county clerk. Notice

of the membership and organization of every local board of health shall be forthwith given by such board to the state board of health. The term "municipality," when used in this article means the city, village or town for which any such local board may be or is appointed.

This act shall take effect at the next annual election of the village, and the term of office of all members of health boards in villages, then in office, appointed under section twenty, chapter six hundred and sixty-one, laws of eighteen hundred and ninety-three, before this act takes effect shall expire at that date.

Am'd by ch. 584 of 1895.

**§ 21. General powers and duties of local boards of health.**—Every such local board of health shall meet at stated intervals to be fixed by it, in the municipality. The presiding officer of every such board may call special meetings thereof where in his judgment the protection of the public health of the municipality requires it, and he shall call such meeting upon the petition of at least twenty-five residents thereof, of full age, setting forth the necessity of such meeting. Every such local board shall prescribe the duties and powers of the local health officer, who shall be its chief executive officer, and direct him in the performance of his duties, and fix his compensation. Every such local board shall make and publish from time to time all such orders and regulations as they may deem necessary and proper for the preservation of life and health, and the execution and enforcement of the public health law in the municipality. It shall make without publication thereof, such orders and regulations for the suppression of nuisances, and concerning all other matters in its judgment detrimental to the

public health in special or individual cases, not of general application, and serve copies thereof upon the owner or occupant of any premises whereon such nuisances or other matters may exist, or post the same in some conspicuous place thereon. It may employ such persons as shall be necessary to enable it to carry into effect its orders and regulations, and fix their compensation. It may issue subpoenas, compel the attendance of witnesses, administer oaths to witnesses and compel them to testify, and for such purposes it shall have the same powers as a justice of the peace of the state in a civil action of which he has jurisdiction. It may designate by resolution one of its members to sign and issue such subpoenas. No subpoena shall be served outside the jurisdiction of the board issuing it, and no witness shall be interrogated or compelled to testify upon matters not related to the public health. It may issue warrants to any constable or policeman of the municipality to apprehend and remove such persons as can not otherwise be subjected to its orders or regulations, and a warrant to the sheriff of the county to bring to its aid the power of the county whenever it shall be necessary to do so. Every warrant shall be forthwith executed by the officer to whom directed, who shall have the same powers and be subject to the same duties in the execution thereof, as if it had been duly issued out of a court of record of the state. Every such local board may prescribe and impose penalties for the violation of or failure to comply with any of its orders or regulations, not exceeding one hundred dollars for a single violation or failure, to be sued for and recovered by it in the name and for the benefit of the municipality; and to maintain actions in any



court of competent jurisdiction to restrain by injunction such violations, or otherwise to enforce such orders and regulations.

Am'd by ch. 203 of 1895. In effect April 1, 1895.

Whenever such local board of health in any incorporated village shall deem the sewers of such village insufficient to properly and safely sewer such village, and protect the public health, it shall certify such fact in writing to the board of trustees of such village, stating and recommending what additions or alterations should in the judgment of such board of health be made, with its reasons therefor, and thereupon such board of trustees shall immediately convene and consider such recommendations, and if approved by such board of trustees, the same shall be certified to the state board of health for its approval, and if such recommendations shall be approved by the state board of health, it shall be the duty of the board of trustees of such village to forthwith make such additions to or alterations in the sewers of such village and execute such recommendation, and the expenses thereof shall be paid for by said village in the same manner as other village expenses are paid, and said village is hereby authorized to raise such sum as may be necessary for the payment of the expenses incurred, as herein provided, in addition to the amount such village is now authorized to raise by law for corporation purposes, and such board of trustees shall have the right to acquire such lands, rights of way, or other easements, by gift, or purchase, or in case the same can not be acquired by purchase the board of trustees

may acquire the same by condemnation in the manner provided by law.

Add'd by ch. 928 of 1895. In effect June 5, 1895.

§ 22. **Vital statistics.**—Every such local board shall supervise and make complete the registration of all births, marriages and deaths occurring within the municipality, and the cause of death and the findings of coroners' juries, in accordance with the methods and forms prescribed by the state board of health, and, after registration, promptly forward the certificate of such births, marriages and deaths to the state bureau of vital statistics. Every parent or custodian of a child born, and the physician or midwife who attended at the birth of such child, and every groom, officiating clergyman or magistrate at every marriage, shall cause a certificate of such birth or marriage to be returned within thirty days thereafter to the local board of health or person designated by it to receive the same, which shall be attested, if a birth, by the physician or midwife, if any, in attendance, and, if a marriage, by the officiating clergyman or magistrate. The cost of such registration, not exceeding twenty-five cents for the complete registered record of a birth, marriage or death, shall be a charge upon the municipality. The charge for a copy thereof shall be fixed by the board, not exceeding the same sum for a complete copy of a single registered record and the additional sum of twenty-five cents if certified to. Such copies shall be furnished upon request of any person, and when certified to be correct by the president or secretary of the board or local registering

officer designated by it shall be presumptive evidence in all courts and places of the facts therein stated.

Am'd by ch. 679 of 1894. In effect May 12, 1894.

§ 23. **Burial and burial permits.**— Every such local board shall prescribe sanitary regulations for the burial and removal of corpses, and shall designate the persons who shall grant permits for such burial, and permits for the transportation of any corpse which is to be carried for burial beyond the county where the death occurred. Every undertaker, sexton or other person having charge of any corpse, shall procure a certificate of the death and the probable cause duly certified by the physician in attendance upon the deceased during his last illness, or by the coroner where an inquisition is required by law, and if no physician was in attendance, and no inquest has been held or required by law, an affidavit stating the circumstances, time and cause of death, and sworn to by some credible person known to the officer granting the permit, and there shall be no burial or removal of a corpse until such certificate or affidavit has been presented to the local board or to the person designated by it, and thereupon a permit for such burial or removal has been obtained. When application is made for a permit to transport a corpse over any railroad or upon any passenger steamboat within the state, the board of health, or the officers to whom such application is made, shall require such corpse to be inclosed in a hermetically sealed casket of metal or other indestructible material, if the cause of death shall have been from a contagious or infectious disease.

§ 24. **Contagious and infectious diseases.**— Every such local board of health shall guard against the in-

troduction of contagious and infectious diseases by the exercise of proper and vigilant medical inspection and control of all persons and things arriving in the municipality from infected places, or which from any cause are liable to communicate contagion. It shall require the isolation of all persons and things infected with or exposed to such diseases, and provide suitable places for the treatment and care of sick persons who can not otherwise be provided for. It shall prohibit and prevent all intercourse and communication with or use of infected premises, places and things, and require, and, if necessary, provide the means for the thorough purification and cleansing of the same before general intercourse with the same or use thereof shall be allowed. It shall report to the state board of health, promptly, the facts relating to contagious and infectious diseases, and every case of small-pox or varioloid within the municipality. Health officers of villages and towns shall report in writing once a month to the state board of health all cases of such infectious and contagious diseases as may be required by the state board of health, and for such reporting the health officer shall be paid by the municipality employing him, upon the certification of the state board of health, a sum not to exceed twenty cents for each case so reported ; and the health officer shall report annually on or before the first day of January in each year the number of cases of consumption which have existed in his jurisdiction during that year, and for each case thus reported he shall receive a sum not to exceed ten cents, to be paid in the same manner as the other like charges are paid. It shall provide, at stated intervals, a suitable supply of vaccine virus, of a quality and from a source approved by the state board of health, and during an actual epidemic of small-pox obtain fresh

supplies of such virus at intervals not exceeding one week, and at all times provide thorough and safe vaccination for all persons in need of the same. If a pestilential, infectious or contagious disease exists in any county almshouse or its vicinity, and the physician thereof shall certify that such disease is likely to endanger the health of its inmates, the county superintendent of the poor may cause such inmates or any of them to be removed to such other suitable place in the county as the local board of health of the municipality where the almshouse is situated may designate there to be maintained and provided for at the expense of the county, with all necessary medical care and attendance until they shall be safely returned to such almshouse or otherwise discharged. The boards of health of the cities of New York, Brooklyn, Buffalo, Albany and Yonkers, shall report promptly to the state board all cases of small-pox, typhus and yellow fever and cholera and the facts relating thereto.

§ 25. **Nuisances.** — Every such local board shall receive and examine into all complaints made by any inhabitant concerning nuisances, or causes of danger or injury to life and health within the municipality, and may enter upon or within any place or premises where nuisances or conditions dangerous to life and health are known or believed to exist, and by its members or other persons designated for that purpose, inspect and examine the same. The owners, agents and occupants of any such premises shall permit such sanitary examinations to be made, and the board shall furnish such owners, agents and occupants with a written statement of the results and conclusions of any such examination. Every such local board shall order the suppression and removal of all nuisances and conditions detrimental to life and

health found to exist within the municipality. Whenever the state board of health or its president and secretary shall by notice to the presiding officer of any local board of health, request him to convene such local board to take certain definite proceedings concerning which the state board of health or its president and secretary shall be satisfied that the action recommended by them is necessary for the public good, and is within the jurisdiction of such board of health, such presiding officer shall convene such local board, which shall take the action recommended.

§ 26. **Removal of nuisances.** — If the owner or occupant of any premises fails to comply with any order or regulation of any such local board for the suppression and removal of any nuisance or other matter, in the judgment of the board detrimental to the public health, made, served or posted as required in this article, such boards or their servants or employes may enter upon the premises to which such order or regulation relates, and suppress or remove such nuisance or other matter. The expense of such suppression or removal shall be paid by the owner or occupant of such premises, or by the person who caused or maintained such nuisance or other matters, and the board may maintain an action in the name of the municipality to recover such expense, and the same when recovered shall be paid to the treasurer of the municipality, or if it has no treasurer to its chief fiscal officer, to be held and used as the funds of the municipality.

§ 27. **Expense of abatement of nuisances a lien upon the premises.** — If execution upon a judgment for the recovery of the expense of the suppression or removal of a nuisance or other matter, pursuant to an order or regulation of any such local board, is returned



wholly or in part unsatisfied, such judgment, if docketed in the place and manner required by law to make a judgment of a court of record a lien upon real property, shall be a first lien upon such premises, having preference over all other liens and incumbrances whatever. The board may cause such premises to be sold for a term of time for the payment and satisfaction of such lien and the expenses of the sale. Notice of such sale shall be published for twelve weeks successively, at least once in each week, in a newspaper of the city, village or town, or if no newspaper is published therein, in the newspaper published nearest to such premises. If the owner or occupant of the premises, or his agent, is known, a copy of such notice shall be served upon him, either personally, at least fourteen days previous to the sale, or by mail at least twenty-eight days prior thereto. The premises shall be sold to the person offering to take them for the shortest time, paying the amount unpaid on such judgment and interest and the expenses of such notice and sale. A certificate of the sale, signed and acknowledged by the president and secretary of the board, shall be made and delivered to the purchaser, and may be recorded as a conveyance of real property, and the purchaser shall thereupon be entitled to the immediate possession of such premises, and, if occupied, may maintain an action or proceeding to recover the possession thereof against the occupant, as against a tenant of real property holding over after the expiration of his term; and the cost of any such action or proceeding, if not paid by the occupant, shall also be a lien upon such premises, having the same preference as the lien of such judgment, and the right of the purchaser to such premises shall be extended for a longer term, which shall bear the same proportion to the original

term as the amount of such costs bears to the amount paid by the purchaser on such sale. The term of the purchaser at any such sale shall commence when he shall have acquired possession of the premises sold. At any time within six months after recording such certificate, the owner of the premises or any lessee, mortgagee or incumbrancer thereof, or of any part of the same, may redeem the premises or any such part from such sale by paying to the purchaser the amount paid by him on the sale, and all costs and expenses incurred by him in any action or proceeding to recover possession with interest at the rate of ten per cent per annum thereon. If redemption is made by the owner, the right of the purchaser shall be extinguished; if by a lessee, the amount paid shall be applied as a payment upon any rent due or which may accrue upon his lease; if by a mortgagee or an incumbrancer, the amount paid shall be added to his mortgage, incumbrance or other lien, or if he have more than one to the oldest, and shall thereafter be a part of such mortgage, lien or incumbrance and enforceable as such.

§ 28. **Manufactures in tenement houses and dwellings.**—No room or apartment in a tenement or dwelling house, used for eating or sleeping purposes, shall be used for the manufacture, wholly or partly, of coats, vests, trousers, knee-pants, overalls, cloaks, shirts, purses, feathers, artificial flowers or cigars, except by the members of the family living therein, which shall include a husband and wife and their children, or the children of either. A family occupying or controlling such a workshop shall, within fourteen days from the time of beginning work therein, notify the board of health of the city, village or town, where such shop is located, or a special inspector appointed by such board,

of the location of such workshops, the nature of the work carried on, and the number of persons employed therein; and thereupon such board shall, if it deems advisable, cause a permit to be issued to such family to carry on the manufacture specified in the notice. Such board may appoint as many persons as it deems advisable to act as special inspectors. Such special inspectors shall receive no compensation, but may be paid by the board their reasonable and necessary expenses. If a board of health or such inspector shall find evidence of infectious or contagious diseases present in any workshop, or in goods manufactured or in process of manufacture therein the board shall issue such orders as the public health may require, and shall condemn and destroy such infectious and contagious articles, and may, if necessary to protect the public health, revoke any permit granted by it for manufacturing goods in such workshop. If a board of health or any such inspector shall discover that any such goods are being brought into the state, having been manufactured, in whole or in part, under unhealthy conditions, such board or inspector shall examine such goods, and if they are found to contain vermin, or to have been made in improper places or under unhealthy conditions, the board may make such orders as the public health may require, and may condemn and destroy such goods.

**§ 29. Jurisdiction of town and village boards.—**

A town board of health shall not have jurisdiction over any city or incorporated village or part of such city or village in such town, if such city or village has an organized board of health. The boards of health of any town and the incorporated villages therein, or any two or more towns and the incorporated villages therein, may unite, with the written approval of the state board

of health, in a combined sanitary and registration district, and appoint for such district one health officer and registering officer, whose authority in all matters of general application shall be derived from the boards of health appointing him; and in special cases not of general application arising within the jurisdiction of but one board shall be derived from such board alone.

§ 30. **Expenses, how paid.**— All expenses incurred by any local board of health in the performance of the duties imposed upon it or its members by law shall be a charge upon the municipality, and shall be audited, levied, collected and paid in the same manner as the other charges of, or upon, the municipality are audited, levied, collected and paid. The taxable property of any village maintaining its own board of health shall not be subject to taxation for maintaining any town board of health, or for any expenditure authorized by the town board of health, but the costs and the expenditures of the town board shall be assessed and collected exclusively on the property of the town outside of any such village

§ 31. **Mandamus.**— The performance of any duty or the doing of any act enjoined, prescribed or required by this article, may be enforced by mandamus at the instance of the state board of health or its president or secretary, or of the local board of health, or of its president or secretary, or of any citizen of full age resident of the municipality where the duty should be performed or the act done.

§ 32. **Exceptions and limitations as to cities of New York, Brooklyn, Buffalo, Albany and Yonkers.**— This article shall not be construed to affect, alter or repeal laws now in force relating to the boards of health of the cities of New York, Brooklyn, Buffalo, Albany and Yonkers, nor the sanitary codes duly adopted and now in force in such cities.

## ARTICLE III.

## ADULTERATIONS

- SECTION** 40. Definitions.
41. Adulterations.
  42. Duties of state board of health in respect to adulterations.
  43. Analysis of spirituous, fermented or malt liquors.
  44. Samples to be furnished.
  45. Seizure of milk.
  46. Adulteration of wines.
  47. Pure wine defined.
  48. Half wine and made wine defined; packages how stamped or labeled.
  49. Penalties.
  50. Report to district attorney.

§ 40. **Definitions.**—The term, food, when used herein, shall include every article of food and every beverage used by man and all confectionery; the term, drug, when so used shall include all medicines for external and internal use.

§ 41. **Adulterations.**—No person shall, within the state, manufacture, produce, compound, brew, distill, have, sell or offer for sale any adulterated food or drug. An article shall be deemed to be adulterated within the meaning of this act: A. In the case of drugs:

1. If when sold under or by a name recognized in the United States pharmacopeia, it differs from the standard of strength, quality or purity laid down therein.

2. If, when sold under or by a name not recognized in the United States pharmacopeia, but which is found in some other pharmacopeia or other standard work on materia medica, it differs materially from the standard of strength, quality or purity laid down in such work.

3. If its strength or purity fall below the professed standard under which it is sold.

B. In the case of food :

1. If any substance or substances has or have been mixed with it so as to reduce or lower or injuriously affect its quality or strength.

2. If any inferior or cheaper substance or substances have been substituted wholly or in part for the article.

3. If any valuable constituent of the article has been wholly or in part abstracted.

4. If it be an imitation or be sold under the name of another article.

5. If it consists wholly or in part of diseased or decomposed or putrid or rotten animal or vegetable substance, whether manufactured or not, or in the case of milk, if it is the produce of a diseased animal.

6. If it be colored, or coated, or polished, or powdered, whereby damage is concealed, or it is made to appear better than it really is, or of greater value.

7. If it contain any added poisonous ingredient, or any ingredient which may render such article injurious to the health of the person consuming it. Provided that an article of food which does not contain any ingredient injurious to health, shall not be deemed to have been adulterated, in the case of mixtures or compounds which may be now, or from time to time hereafter, known as articles of food under their own distinctive names, or which shall be labeled so as to plainly indicate that they are mixtures, combinations, compounds or blends, and not included in definition fourth of this section.

C. In the case of spirituous, fermented and malt liquors, if it contain any substance or ingredient not normal or healthful to exist in spirituous, fermented or



malt liquors, or which may be deleterious or detrimental to health when such liquors are used as a beverage. In the case of ale or beer, if it contain any substitute for hops, or pure extract of hops, or if any such substitute is used in the manufacture thereof.

D. In the case of confectionery, if it contains terra alba, barytes, talc or other mineral substance or poisonous colors or flavors, or other ingredient deleterious or detrimental to health. If the standard of any article of food or any drug is not established in a national pharmacopeia, the state board of health shall, from time to time, fix the limit for variability permissible therein. The state board of health may, from time to time, with the approval of the governor, declare what articles or preparations shall be exempt from the provisions of this article, and publish a list of such articles which shall thereafter be so exempt. Every person violating any provision of this section shall forfeit to the people of the state the sum of one hundred dollars for every such violation.

§ 42. **Duties of state board of health in respect to adulterations.**—The state board of health shall take cognizance of the interests of the public health as affected by the sale or use of food and drugs and the adulterations thereof, and make all necessary inquiries and investigations relating thereto. It shall appoint such public analysts, chemists and inspectors as it may deem necessary for that purpose, and revoke any such appointment whenever it shall deem the person appointed incompetent, or his continuance in the service for any reason undesirable. It shall from time to time, adopt such measures and make such regulations and declarations, in addition to the provisions of this article, as may seem necessary to enforce or facilitate the en-

forcement of this article, or for the purpose of making an examination or analysis of any food or drug sold or exposed for sale in the state, and all such regulations and declarations made in any year shall be filed in the office of the secretary of state and published in the session laws first published after the expiration of thirty days from such filing.

§ 43. **Analysis of spirituous, fermented or malt liquors.**—The state board of health shall at least once in each calendar year cause samples to be procured in the public market or otherwise of the spirituous, fermented or malt liquors, distilled, brewed, manufactured, sold or offered for sale in each brewery and distillery located in this state. Such samples shall be kept in vessels in a condition to obtain a proper test and analysis thereof. Such vessels shall be properly labeled and numbered by the secretary of such board, who shall prepare and keep an accurate list of the names of the distillers, brewers and vendors of the liquors from which the samples were taken, and opposite each name shall appear the number which is written or printed on the label attached to the vessel containing the sample. Such lists, numbers and labels shall be exclusively for the information of such board, and shall not be disclosed or published unless upon discovery of some deleterious substance therein prior to the completion of the analysis or required in evidence in court. When listed and numbered, every such sample shall be delivered to an analyst, chemist or officer of the board, and shall be designated and known to him only by its number, and by no other mark or designation. A test or analysis of such sample shall be made by such analyst, chemist or officer, which will determine the ingredients or component parts thereof. The result of such test or analysis shall be im-

mediately reported by the person making the same to the secretary of such board, setting forth explicitly the nature of any deleterious substance, compound or adulteration found therein which may be detrimental to public health, and the number of samples in which it was found. Any brewer, distiller or vendor in whose samples any such substance, compound or adulteration is found upon any such test or analysis, shall be deemed to have violated the provisions of this article, prohibiting the manufacturing, having, selling or offering for sale adulterated food.

§ 44. **Samples to be furnished.**—Every person selling, or offering, or exposing for sale or manufacturing or producing any article of food, or any drug, shall upon tender of the value thereof, furnish any analyst, chemist, officer or agent of the state board of health or of any local board of health, with a sample of any such article or drug, sufficient for the purpose of analysis or test. For every refusal to furnish the same, the person so refusing shall forfeit to the people of the state the sum of one hundred dollars.

§ 45. **Seizure of milk.**—When a health officer or other official shall seize or destroy or cause to be seized or destroyed any milk, he shall take a sample of such milk in the presence of at least one witness, and shall, in the presence of such witness, seal such sample and tender it to the vendor or person in charge of such milk, and if accepted, shall also deliver therewith, a statement in writing of the date and cause of such seizure or destruction. Any health officer or other official violating the provisions of this section, shall be liable to a penalty of fifty dollars, to be recovered by the person aggrieved.

§ 46. **Adulteration of wines.**—All wines containing alcohol, except such as shall be produced by the natural

fermentation of pure undried fruit juices or compounded with distilled spirits, whether denominated as wines or by any other name, which may be used as a beverage or compounded with other liquors intended for such use, and all compounds of the same with pure wine, and all preserved fruit juices compounded with substances not produced from undried fruit in the nature of or intended for use as a beverage, or for use in the fermentation or preparation of liquors intended for such use, and all wines, imitations of wines or other beverages produced from fruit, which shall contain any alum, baryta salts, caustic lime, carbonate of soda, carbonate of potash, carbonic acid, salts of lead, glycerine, salic acid, or any other antiseptic, coloring matter, not produced from undried fruit, artificial flavoring, essence of ether or any other foreign substance injurious to health, shall be known as or deemed to be adulterated wine, and shall not be sold, offered for sale or manufactured with intent to sell within this state; and all such wine and every such beverage shall be deemed a public nuisance and forfeited to the state and shall be summarily seized and destroyed by any health officer within whose jurisdiction it shall be found, and the reasonable expense of such seizure and destruction shall be a county charge.

§ 47. **Pure wine defined.**—For the purpose of this article, pure wine shall be deemed to mean the fermented juice of undried grapes or other undried fruits, but the addition of pure sugar to perfect the wine or of pure distilled spirits to preserve it, not to exceed eight per cent of its volume, or the use of things necessary to clarify and fine the wine not injurious to health shall not be construed as adulteration, if such pure wine shall contain at least seventy-five per cent of pure grape or other undried fruit juice.

§ 48. **Half wine and made wine defined ; packages how stamped or labeled.**— For the purpose of this article, any wine which contains less than seventy-five and more than fifty per cent of pure grape or other undried fruit juice and is otherwise pure shall be known as half wine, and upon each and every package of such wine manufactured with the intent to sell, or sold or offered for sale by any person within this state, if containing more than three gallons, there shall be stamped on both ends of the package containing the same in black printed letters, at least one inch in height and of proper proportion in width, the words “half wine ;” and if containing more than one quart and not more than three gallons, there shall be stamped on each package in plain printed black letters, at least one-half inch high and of proper proportion as to width, the words “half wine ;” and if in a package or bottle of one quart or less, there shall be placed a label securely pasted thereon, having the words “half wine” plainly printed in black letters at least one-quarter of an inch high and of proper proportion as to width. If any number of small packages is inclosed in a larger package, as a box, barrel, case or basket, such outside package shall have thereon the stamp “half wine” in letters of a size according to the size of such outer package. Every person who shall sell, offer for sale, or manufacture with the intent to sell, within the state any wine containing less than fifty per centum of pure grape or other undried fruit juice and otherwise pure, shall cause all the packages containing the same to be stamped, marked and labeled with the words “made wine” in the same manner as “half wine” is required in this section to be stamped, marked and labeled, and all such wine shall be known and sold as “made wine.”

§ 49. **Penalties.**—Every person who manufactures with intent to sell, sells or offers for sale within the state, any wine of a kind or character, the manufacture, sale or offering for sale of which is prohibited by this article, or which is not stamped, marked or labeled as required by this article, shall forfeit to the county wherein such manufacture, sale or offering for sale takes place, the sum of one-half dollar for each gallon thereof so sold or manufactured with the intent to sell. The provisions of the three preceding sections of this article shall not apply to medicated wines which are put up and sold for medical purposes only.

§ 50. **Report to district attorney.**—Upon discovering any violations of the provisions of the Penal Code relating to the adulteration of foods and drugs, the state board of health shall immediately communicate the facts to the district attorney of the county where the violation occurred, who shall thereupon forthwith commence proceedings for the indictment and trial of the person charged with such violation. Nothing in this article shall be construed to in any way repeal or affect any of the provisions of chapter 183 of the Laws of 1885, or the acts amendatory thereof or supplemental thereto, or of chapter 515 of the Laws of 1889, nor to prohibit the coloring of butter made from milk, the product of the dairy or the cream from the same with coloring matter which is not injurious to health.

## ARTICLE IV.

### TUBERCULOSIS AND GLANDERS.

SECTION 60. Jurisdiction of state board.

61. Suppression of tuberculosis.

62. Destruction of cattle or animals affected with tuberculosis or glanders.



SECTION 63. Compensation to owners.

64. Penalties.

§ 60. **Jurisdiction of state board.**— The state board of health shall investigate concerning the existence and cause of tuberculosis in cattle and the danger to the public health therefrom, and shall use all reasonable means for averting and suppressing such disease. Such board may cause all proper information in its possession respecting tuberculosis in cattle to be sent to the local board of health nearest to the cattle affected, and may add thereto such useful suggestions as to the removal of the sources of danger therefrom or as to the destruction of such cattle, as to such board may seem proper. The local health authorities shall supply to the state board of health like information and suggestions respecting the existence of tuberculosis in cattle.

§ 61. **Suppression of tuberculosis.**— Whenever tuberculosis shall be found among cattle in any part of the state, the state board of health shall take measures to suppress such disease and prevent the spread thereof, and may order all persons to take such precautions against the spread of such disease as it may deem necessary or expedient. Such board may call upon any peace officer in the neighborhood of such disease to enforce the orders of such board respecting such disease, and to observe and carry out the rules, orders and instructions which he may receive therefrom. Such board may prescribe regulations for the destruction of cattle affected with tuberculosis, for the proper dispensation of their hides and carcasses and of all objects which might convey the infection or contagion, and for the disinfection of premises, buildings, boats, cars, stables and other objects or places from or by which such infection or contagion might be communicated. The state

board of health may employ such medical aid, veterinary practitioners and other persons as it may deem necessary, to assist in the inspection, isolation, destruction or disposition of cattle affected with tuberculosis, prescribe rules and regulations for such inspectors and employes, and fix their compensation.

**§ 62. Destruction of domestic animals affected with tuberculosis or glanders.**—Whenever the state board of health may deem it necessary for the prevention of the spread of tuberculosis in cattle, such board may cause to be killed, any animal affected thereby, or which, by contact with diseased animals or by exposure or infection or contagion therefrom, such board may determine is liable to contract or communicate such disease; but no such diseased animal shall be so killed on account of tuberculosis unless first examined by a veterinary practitioner in the employ of the state board of health, and, if desired by the owner, appraised as hereinafter provided. A local board of health shall, pursuant to rules and regulations prescribed by the state board of health, cause to be killed, every horse affected with glanders, found within its jurisdiction, but no horse shall be so killed on account of glanders until the value thereof be appraised as hereinafter provided.

Am'd by ch. 674 of 1894. In effect May 12, 1894.

**§ 63. Compensation to owners.**—To determine the value of such animal, the comptroller shall designate some competent, disinterested person, residing within the judicial district in which such animal may be, to act as appraiser, with an appraiser to be selected by the owner of such animal, who shall promptly fix a time when they shall view such animal and shall proceed to appraise the value thereof. In case of a disagreement between the two appraisers, the third appraiser shall be selected by them, and the estimate of the value of either two of them shall be final. The animal shall be appraised at its sound value, provided, however, no single unregistered animal shall be appraised at more than sixty dollars; and no horse affected with glanders shall

be appraised at more than fifty dollars. Each appraisal shall be in writing, signed by the appraiser or appraisers agreeing, and shall be delivered by them, if the animal be suspected of tuberculosis, to the veterinary practitioner in charge of such animal, and if the animal be a horse affected with glanders, to the secretary of the local board of health having jurisdiction thereof. Upon the delivery of such appraisal, such animal shall be killed, as hereinbefore provided; and if it be killed on account of tuberculosis, the veterinary practitioner in charge thereof shall forthwith make a post-mortem examination of the animal, and if it shall be discovered on such post-mortem examination that the animal was affected by tuberculosis, the owner of the animal shall be entitled to receive one-half of the appraised value; provided however that not more than sixty dollars shall be paid for a diseased registered animal and not more than twenty-five dollars shall be paid for a diseased unregistered animal, but if such examination of the animal killed on account of tuberculosis discloses that the animal was not affected with tuberculosis, the owner shall be entitled to receive the full appraised value. The written appraisal of the value of an animal killed on account of tuberculosis, and a written statement of the result of the post-mortem examination thereof, signed by the veterinary practitioner in charge thereof, shall forthwith be transmitted by such veterinary practitioner to the secretary of the state board of health, who shall file the same in his office. The secretary of the local board of health having jurisdiction in the care of a horse affected with glanders shall, in case such horse is killed, upon receipt of the written appraisal, signed by the appraiser or appraisers, as hereinbefore provided, forthwith make and sign a certificate of such fact, and transmit such appraisal and certificate to the secretary of the state board of health, who shall file the same in his office. Upon receipt from the veterinary practitioner, in the case of an animal killed on account of tuberculosis, or from the secretary of the local board of health having jurisdiction in the case of a horse killed on account of glanders, such secretary of the state board

of health shall forthwith make a written certificate, signed by him, setting forth the name and post-office address of the owner of the animal killed, and the amount which such owner is entitled to be paid on account of the killing of such animal, and shall forthwith transmit such certificate to the comptroller, who shall issue his warrant upon the treasurer for the payment to such person of the amount so certified, and shall mail the same to such person at his post-office address as it appears by such certificate. No compensation shall be allowed to any person who shall have willfully concealed the existence of tuberculosis or glanders among his animals, or upon his premises, or who, directly or indirectly, by act or willful neglect, shall have contributed to the spread of such diseases or either of them, and no compensation shall be made under the provisions of this act to any owner, for animals killed unless the animal or animals killed shall have been actually owned and possessed by the owner thereof within this state for a period of three months prior to such condemnation. The appraisers to be appointed as aforesaid, by the comptroller, shall hold office during the pleasure of the state board of health. Each appraiser so appointed shall receive as compensation the sum of five dollars per day for each day actually employed, and shall also be paid his actual necessary disbursements, but no claim for services or disbursements shall be allowed or paid unless accompanied by a verified detailed statement thereof.

§ 3. The sum of thirty thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any funds not otherwise appropriated, for the payment of claims to owners of animals killed in pursuance of the provisions of this act.

Am'd by ch. 674 of 1894. In effect May 12, 1894.

§ 64. **Penalties.**—Any person refusing to obey or violating an order, rule or regulation of the state board of health respecting tuberculosis in cattle, adopted pursuant to law, shall be liable to a penalty of one hundred dollars, recoverable by the state board of health, and applicable to the payment of the expenses of such board in carrying out the provisions of this article.

§ 65. **Special committee of state board.**—The state board of health may appoint two of its members as a committee, whose particular duties shall be to carry out the provisions of the public health law, relating to tuberculosis in cattle, and such members so appointed shall be entitled to receive a salary of two hundred and fifty dollars per month and any necessary expenses, and they shall hold office for one year. Such committee shall keep a complete record of all the work done and submit monthly reports thereof to the state board of health.

Am'd by ch. 1013 of 1895. In effect June 14, 1895.

## ARTICLE V.

### POTABLE WATERS.

SECTION 70. Rules and regulations of state board.

71. Inspection of water supply.

72. Sewerage.

73. Discharge of sewage into Wallkill creek, prohibited.

74. Discharge of sewage into the Susquehanna near Binghamton, prohibited.

§ 70. **Rules and regulations of state board.**—The state board of health may make rules and regulations for the protection from contamination of any or all public supplies of potable waters and their sources within the state, and impose penalties for the violation thereof or the non-compliance therewith, not exceeding two hundred dollars for every such violation or non-compliance. Every such rule or regulation shall be published at least once in each week for six consecutive weeks, in at least one newspaper of the county where the waters to which it relates are located. The cost of such publication shall be paid by the corporation or



municipality benefited by the protection of the water supply, to which the rule or regulation published relates. The affidavit of the printer, publisher or proprietor of the newspaper in which such rule or regulation is published may be filed, with the rule or regulation published, in the county clerk's office of such county, and such affidavit and rule and regulation shall be conclusive evidence of such publication, and of all the facts therein stated in all courts and places.

§ 71. **Inspection of water supply.**— The officer or board having by law the management and control of the potable water supply of any municipality, or the corporation furnishing such supply, may make such inspection of the sources of such water supply, as such officer, board or corporation deems it advisable, and to ascertain whether the rules or regulations of the state board are complied with. If any such inspection discloses a violation of any such rule or regulation such officer, board or corporation shall cause a copy of the rule or regulation violated to be served upon the person violating the same, with a notice of such violation. If the person served does not immediately comply with the rule or regulation violated, such officer, board or corporation shall notify the state board of the violation, which shall immediately examine into such violation; and if such person is found by the state board to have actually violated such rule or regulation, the secretary of the state board shall order the local board of health of such municipality to convene and to enforce obedience to such rule or regulation. If the local board fails to enforce such order within ten days after its receipt, the corporation furnishing such water supply, or the municipality deriving its water supply from the waters to which such rule or regulation relates, may maintain an action in a court of record,



which shall be tried in the county where the cause of action arose against such person, for the recovery of the penalties incurred by such violation, and for an injunction restraining him from the continued violation of such rule or regulation.

§ 72. **Sewerage.**—When the state board of health shall, for the protection of a water supply from contamination, make orders or regulations the execution of which will require or make necessary the construction and maintenance of any system of sewerage, or a change thereof, in or for any village or hamlet, whether incorporated or unincorporated, or the execution of which will require the providing of some public means of removal or purification of sewage, the municipality or corporation owning the water-works benefited thereby shall, at its own expense, construct and maintain such system of sewerage, or change thereof, and provide such means of removal and purification of sewage, and such works or means of sewage disposal as shall be approved by the state board of health. When the execution of any such regulations of the state board of health will occasion or require the removal of any building or buildings, the municipality or corporation owning the water-works benefited thereby shall, at its own expense, remove such buildings and pay to the owner thereof all damages occasioned by such removal. When the execution of any such regulation will injuriously affect any manufacturing or industrial enterprise which is not a public nuisance, such municipality or corporation shall pay all damages occasioned by the enforcement thereof. Until such construction or change of such system or systems of sewerage, and the providing of such means of removal or purification of sewage, and such works or means of sewage disposal and the removal of any building, are so

made by the municipality or corporation owning the water-works to be benefited thereby at its own expense, there shall be no action or proceeding taken by such municipality or corporation against any person or corporation for the violation of any regulation of the state board of health under this article, and no person or corporation shall be considered to have violated or refused to obey any such rule or regulation. The owner of any building the removal of which is occasioned or required, or which has been removed by any rule or regulation of the state board of health made under the provisions of this article, and all persons whose rights of property are injuriously affected by the enforcement of any such rule or regulation, shall have a cause of action against the municipality or corporation owning the water-works benefited by the enforcement of such rule or regulation, for all damages occasioned or sustained by such removal or enforcement, and an action therefor may be brought against such municipality or corporation in any court of record in the county in which the premises or property affected is situated and shall be tried therein; or such damages may be determined by a special proceeding in the supreme court or the county court of the county in which the property is situated. Such special proceedings shall be commenced by petition and notice to be served by such owner upon the municipality or corporation in the same manner as for the commencement of condemnation proceedings. Such municipality or corporation may make and serve an answer to such petition as in condemnation proceedings. The petition and answer shall set forth the claims of the respective parties, and the provisions of the condemnation law shall be applicable to the subsequent proceedings upon the petition and answer, if any. Either party may, before

the service of the petition or answer respectively, offer to take or pay a certain sum, and no costs shall be awarded against either party unless the judgment is more unfavorable to him than his offer.

**§ 73. Discharge of sewage into Wallkill creek prohibited.**—No person or corporation shall permit the discharge or escape of any sewage, or other matter deleterious to public health, or destructive to fish, or throw or cast any dead animal, carrion or offal, or other putrid or offensive matter into the waters of the Wallkill creek, in the counties of Ulster and Orange. Any person violating any provision of this section shall forfeit to the county where the violation occurred the sum of fifty dollars for every such violation.

**§ 74. Discharge of sewage into the Susquehanna near Binghamton, prohibited.**—No person or corporation shall cause to fall, flow or discharge into the Susquehanna river or any of its tributaries, between the Rock Bottom dam in such river at the city of Binghamton, and a point one mile east of the bridge that crosses such river at Conklin, any sewage matter, or other foul, noxious or deleterious, solid or liquid matter, or any matter that may be declared such by the board of health of any municipality adjacent to such river within such limit. The board of health of any such municipality shall examine into any alleged offense against this section and cause the same to be abated, if found to exist. Every person violating any provision of this section shall forfeit to the municipality having a local board of health where the violation occurs the sum of twenty-five dollars for the first day when the violation takes place, and the sum of ten dollars for every subsequent day that such violation is repeated or continued.

## ARTICLE VI.

## QUARANTINE AT THE PORT OF NEW YORK.

## SECTION 80. Quarantine commissioners; organization.

81. Other officers and employes.
82. Meetings; report.
83. Custody of quarantine establishment.
84. Quarantine establishment.
85. Docks and wharves.
86. Anchorage and floating hospital.
87. Boarding station.
88. The West Bank hospital.
89. Crematory.
90. Burying ground.

## § 80. Quarantine commissioners; organization.

— There shall continue to be a board of commissioners of quarantine at the port of New York consisting of three members appointed by the governor by and with the advice and consent of the senate. Each shall be a resident of the county of New York, Kings or Richmond, and shall hold office for three years and receive an annual salary of twenty-five hundred dollars. The board shall elect one of their number president, who shall hold office during the pleasure of the board, but not after he shall cease to be commissioner. The president shall appoint a secretary of the board who shall hold office during the pleasure of the president and receive an annual salary of eighteen hundred dollars to be paid by the health officer.

§ 81. Other officers and employes. — The board shall appoint the following officers who shall receive the following annual salaries to be paid by the health officer.

A superintendent of the Swinburne hospital, twenty-five hundred dollars.

A superintendent of Hoffman island, fifteen hundred dollars.

An engineer at Swinburne island, eleven hundred and fifty dollars.

An engineer at Hoffman island, ten hundred and fifty dollars.

A carpenter at Swinburne island, nine hundred dollars.

A boatman at Swinburne island, seven hundred and fifty dollars.

A boatman at Hoffman island, seven hundred and fifty dollars.

A laundress at Swinburne island, three hundred dollars.

§ 82. **Meetings ; report.** — The commissioners shall hold daily meetings, Sundays and holidays excepted, from May first until November first in each year, and as often in the other months as they may deem necessary. They shall annually report to the legislature at its opening a report of their proceedings and the condition of the quarantine establishment.

§ 83. **Custody of quarantine establishment.** — The commissioners of quarantine shall be the custodians of the quarantine establishment to be held by them in trust for the people of the state, in accordance with the provisions of this chapter. They may make such rules and regulations not inconsistent with law as they shall deem necessary for the care and protection of each portion of the quarantine establishment; for the government of the employes therein; for the regulation of the conduct of all quarantinable persons, and for the prevention of communication or intercourse with any quarantinable vessel. Well persons shall not be detained unnecessarily, and, in cases of exigency, all means conducive to the protection of the public health, not in-

consistent with law, shall be adopted. The salaries and wages of the employes in the quarantine establishment, not specifically provided for in this chapter, shall be fixed and paid by the health officer.

§ 84. **Quarantine establishment.**— Quarantine for the protection of public health shall be maintained in and for the ports of New York, for all vessels arriving thereat from other ports, and for the crews, passengers, equipage, cargoes and other property on board the same. The quarantine establishment at such port shall consist of:

1. Docks and wharves.
2. Anchorage for vessels.
3. Stationary hospital.
4. Floating hospital.
5. Boarding station.
6. Crematory.
7. Residence for officers and men.
8. Such other places and structures as have been or may be authorized by law for quarantine purposes.

§ 85. **Docks and wharves.**— The existing docks and wharves with their appurtenances shall be maintained, and if any such additional structures are required, they shall be constructed at such expense and in such place in the lower bay of New York, not on Staten Island, Long Island or Coney Island, except when in the presence of immediate danger as hereinafter provided, as the quarantine commissioners may determine, with the approval of the commissioners of the land office. If warehouses are constructed they shall be constructed of such capacity as may be decided upon by the commissioners of quarantine and the health officer, and shall have the best ventilation consistent with security for merchandise, and shall have connected with them apart-



ments with suitable appliances for special disinfection by forced ventilation, refrigeration, high steam, dry heat and chemical disinfection. The wharves shall be constructed and maintained with due regard, to safety and protection of vessels.

§ 86. **Anchorage and floating hospital.**— The anchorage for vessels under quarantine shall be in the lower bay, not less than two miles from the nearest shore, and within an area to be designated by buoys by the health officer. The quarantine ship shall be anchored in the lower bay whenever in the judgment of the health officer it is necessary for the protection of the public health. At other times it may be moored in such place as he may direct.

§ 87. **Boarding station.**— The boarding station for vessels from any place where disease subject to quarantine existed at the time of their departure, or which shall have stopped at any such place during their voyage, or on board of which during the voyage any case of such disease shall have occurred, arriving between the first day of April and the first day of November, shall be at such place as the health officer and quarantine commissioners may designate. And all such vessels immediately on their arrival shall anchor near such boarding station and there remain with all persons arriving thereon until discharged by the health officer.

§ 88. **The Swinburne island hospital.**— The Swinburne island hospital in the lower bay of New York, with its docks, wharves and appurtenances shall be used as a hospital for the reception of persons sick with contagious diseases, arriving in quarantinable vessels, and shall be provided with all necessary furniture, fixtures and other facilities for the care of the sick, and for the prompt and efficient discharge of the duties of the health

officer. Such hospital when so required shall be devoted exclusively to the reception and care of persons sick with yellow fever or cholera, and when so used, persons sick with other diseases shall be disposed of and provided for in the manner required by law. When not required for the reception of yellow fever or cholera patients, it may be devoted to the reception of persons sick with other contagious diseases, subject to such regulations as the health officer may prescribe. The expense of the care and the support of every person received into such hospital shall be fixed and determined as other quarantine charges and expenses are by law fixed and determined, and shall be paid to the commissioners of quarantine by the master, owner or consignee of the vessel in which such person shall have arrived, and the payment thereof may be enforced by the same remedies as the payment of other quarantine charges. The structure on Hoffman island now used for that purpose shall continue to be used for the reception and temporary detention of persons under quarantine who have been exposed to contagious or infectious diseases and who may be sent there by the health officer pursuant to law.

§ 89. **Crematory.**—The board of commissioners of quarantine shall maintain upon Swinburne island, in the harbor of New York, a crematory of such form and construction as they may deem advisable. The health officer shall cause to be incinerated therein the bodies of persons dying at the quarantine hospital from contagious or infectious diseases, except of persons whose religious views as communicated by them while living, or by their friends within twenty-four hours after their decease, are opposed to cremation.

§ 90. **Burying ground.**—The commissioners of quarantine may make use of such parts of Swinburne and

Hoffman islands in the harbor of New York, as they may find necessary for the interment of the bodies of persons dying at the quarantine hospital from contagious or infectious diseases, which are not authorized to be cremated or which may not be designated for cremation.

## ARTICLE VII.

### THE HEALTH OFFICER OF THE PORT OF NEW YORK.

#### SECTION 100. Appointment.

101. Residence and general powers.
102. Appointment of assistants, nurses, boatmen and others employed.
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104. Boarding vessels.
105. Bills of health at ports of entry.
106. Effects of deceased persons.
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108. Power over master, owner or consignee of vessel.
109. Quarantinable diseases.
110. Quarantinable vessels and period of quarantine.
111. When vessels may return to sea without quarantine.
112. Detention for examination.
113. Sanitary measures ; admission to pratique.
114. Disposition of well and sick persons.
115. The yellow flag.
116. Quarantinable merchandise.
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118. Vaccination.
119. Regulations for floating hospitals.
120. Duty of pilots.
121. Powers of the board of health, commissioners of health, health officers and mayors of the cities of New York and Brooklyn.
122. Payment of expenses of quarantine.
123. Lien for services and expenses.
124. When master of vessel must provide for passenger.
125. Appeals.
126. Policemen.

**SECTION 127. Confinement of offenders.**

128. Jurisdiction over offenses and in actions.

129. Special port warden.

130. Fees and compensation of health officers.

131. Annual report.

§ 100. **Appointment.**— There shall continue to be a health officer for the port of New York appointed by the governor, by and with the advice and consent of the senate, whose term of office shall be four years, and who shall be a doctor of medicine of good standing of at least ten years' experience in the practice of his profession and practically familiar with quarantinable diseases.

§ 101. **Residence and general powers.**— The health officer for the port of New York shall reside at such convenient place for the boarding of vessels, as the quarantine commissioners may determine. He shall have the general supervision and control of the quarantine establishment, and the care and treatment of the sick thereat, and shall carry into effect the provisions of this article. He shall, in the presence of immediate danger, of which he shall be the judge, take the responsibility of applying such additional measures as may be deemed indispensable for the protection of the public health.

§ 102. **Appointment of assistants, nurses, boatmen and others employed.**— The health officer may appoint and dismiss at pleasure two deputy health officers and a resident physician of the Swinburne island hospital, who may perform, subject to his direction, any duty required of the health officer, and for whose conduct he shall be responsible. He may appoint and dismiss at pleasure as many nurses, boatmen and employes of the floating hospital and boarding station as may be necessary for the proper treatment and care of the

inmates thereof, and in conjunction with the quarantine commissioners, license such lightermen, stevedores, laborers and other employes necessary for the care and purification of vessels, merchandise, baggage, dunnage, and other property in quarantine. The compensation of all persons employed under this section, unless established by law, shall be fixed by the health officer.

§ 103. **Examinations, warrants for offenders.**—The health officer may administer oaths in all examinations to be conducted by him, or under his direction, prescribed by this article, and relative to any alleged violation of quarantine law or regulations. He may issue a warrant to any constable or other citizen for the pursuit and arrest of any person violating any quarantine law or regulation, or obstructing the health officer in the performance of his duty, and for the delivery of any person arrested to the health officer, to be detained in quarantine until discharged by him, not exceeding ten days. Every constable or other citizen to whom any such warrant shall be delivered shall obey the direction thereof.

§ 104. **Boarding vessels.**—The health officer shall board every quarantinable vessel as soon after her arrival as practicable, between sunrise and sunset; shall ascertain by the inspection of the bill of health, manifest, log book or otherwise, as to the health of all persons on board, and the condition of the vessel; shall examine the vessel and cargo; shall examine any person on board or elsewhere as he may deem expedient to enable him to determine the period of quarantine and the regulations to which the vessel and cargo shall be made subject, and shall report the facts and his conclusions, and especially the number of sick persons and their diseases, to the quarantine commissioners. It shall be the duty of the health officers at the several ports of entry within

the state of New York to require the masters of all merchant ships and vessels arriving at said ports from any foreign port, to present a bill of health, duly executed by the consul, vice-consul, or other consular officer of the United States, or by the medical officer attached to the United States consulate by appointment of the United States government, or the representative of the United States government, resident at said port of departure, which shall set forth the sanitary condition and history of said vessel; also the sanitary condition of the cargo and of the crew and passengers; also the sanitary condition of the food, water and ventilation of said vessel; the number of cases at such port of yellow fever, cholera, small-pox, typhus fever, relapsing fever, scarlatina, measles and diphtheria, the total number of deaths from each of these diseases from all causes the week preceding the date of said bill of health, as far as can be ascertained by the said consul, vice-consul or other consular officer of the United States, or the medical officer attached to such consulate. Said bill of health shall contain, in addition to the above a statement of any circumstances affecting the public health in relation to infectious or contagious diseases at the port of departure, or the community adjacent thereto. Vessels that touch at other ports on the passage shall bring a bill of health from each and every port, or shall have indorsed upon the original bill of health by the consul, vice-consul, consular officer or medical officer of the consulate, the facts and conditions of those ports as to the existence and prevalence of the infectious and contagious diseases mentioned in this section. All persons coming from or through any foreign port or place who, after the passage of this act, may arrive at the port of New York, shall be liable to an examination by the health officer or his



deputies, as regards their protection from small-pox. In any case any person so arriving shall refuse to submit to such examination, or upon such examination shall be found not sufficiently protected from small-pox, or refuses to be protected by vaccination, such person, and in case such person be a minor, then also the person having him or her under charge, shall be detained in quarantine until he or she shall have passed the incubative period from date of last possible exposure; and the expense of such detention shall be chargeable by the commissioners of quarantine upon the consignees or owners of the vessel having such person on board, and such expenses as may be incurred shall be a lien upon such vessel. The master of a vessel who shall refuse or neglect to comply with the provisions of this section shall be guilty of a misdemeanor, and be punished by a fine of not less than one hundred dollars nor more than five hundred dollars.

§ 105. **Bills of health.**—The health officer shall require the masters of all merchant ships and vessels arriving at such port from any foreign port to present a bill of health, duly executed by the consul, vice-consul or other consular officer of the United States, or by the medical officer attached to the United States consulate, by appointment of the United States government, or the representative of the United States government resident at such port of departure, setting forth the sanitary condition of the vessel, its cargo, crew, passengers, food, waters and ventilation, and the sanitary history of the vessel, the number of cases at such port of yellow fever, cholera, small-pox, typhus fever, relapsing fever, scarlatina, measles and diphtheria, the total number of deaths from each of these diseases, and from all causes the week preceding the date of the bill of health, as far

as can be ascertained by the officer executing such bill of health, and a statement of any circumstances affecting the public health in relation to infectious or contagious diseases at such port of departure or the community adjacent thereto. Vessels touching other ports on the passage shall also bring a bill of health from each port, or shall have indorsed on the original bill of health by one of such United States officers thereat, the facts and conditions of the ports touched, as to the existence or prevalence there of any such infectious or contagious disease.

§ 106. **Effects of deceased persons.**—The health officer shall secure the effects of deceased persons in quarantine from waste and embezzlement, make a true inventory thereof, and if the rightful claimants thereto do not appear within three months deliver the same to the public administrator of the city of New York, unless they ought not to be removed or ought to be destroyed under the provisions of this article.

§ 107. **Boards of health of New York and Brooklyn.**—The health officer shall keep the boards of health of New York and Brooklyn at all times informed of the number of vessels in quarantine, of the number of sick in the floating hospital and their diseases; and he shall receive any vessel or merchandise sent to him by the health authorities of New York or Brooklyn dangerous to the public health.

§ 108. **Power over master, owner or consignee of vessel.**—If the master, owner or consignee of any quarantinable vessel shall neglect or refuse to do any act or thing lawfully directed to be done by the health officer, or to comply with any lawful order or direction of the health officer, or with any regulation relative to such vessel or any person or thing on board thereof, the

health officer may employ such assistance as may be necessary to enforce any such order, direction or regulation. The health officer in the lighterage, stevedorage and storage of quarantinable vessels and merchandise may permit the captains and owners thereof to employ men upon their own account, subject to the same restrictions for the protection of the public health as if licensed by the health officer and quarantine commissioners.

§ 109. **Quarantinable diseases.**—The quarantinable diseases are: yellow fever, cholera, typhus or ship fever, small pox, scarlet fever, diphtheria, measles and relapsing fever, and any other disease of a contagious, infectious or pestilential nature, which has been or may be determined to be quarantinable by the health officer. Persons with insufficient evidence of effective vaccination and known to have been recently exposed to small pox, shall be vaccinated as soon as practicable and detained until the vaccination shall have taken effect under regulations prescribed by the health officer.

§ 110. **Quarantinable vessels and period of quarantine.**—Every vessel arriving at the port of New York from any place where a quarantinable disease existed at the time of departure, or which shall have arrived at any such place and proceeded therefrom to New York, or on board of which during the voyage any case of any such disease shall have occurred, shall remain at quarantine until the health officer grant a permit for the discharge of such vessel or cargo or both. Every vessel arriving at the port of New York from any foreign port, and every vessel from a domestic port (in the ordinary passage from which they pass south of Cape Henlopen, arriving between the first day of May and the first day of November), shall, on their arrival at the

quarantine ground, be subject to visitation by the health officer, but shall not be detained beyond the time requisite for due examination and observation, unless they have had on board, during the voyage, some case of quarantinable disease, in which case they shall be subject to such regulations as the health officer may prescribe. No vessel shall be put in quarantine without a written decision of the health officer, of which the captain or master shall be immediately informed. No quarantinable vessel shall depart from quarantine without the written permission of the health officer which shall be delivered by the master of the vessel to the board of health of the city of New York or the health commissioner of the city of Brooklyn, according to the destination of the vessel within twenty-four hours after the permit is received by him.

§ 111. **When vessels may return to sea without quarantine.**—A vessel may, before breaking bulk, put to sea in preference to being quarantined, if the health officer is satisfied that its sick will be taken care of for the remainder of the voyage, and its bill of health shall be returned if it has not arrived at its port of destination. The health officer shall state on such bill of health the length and circumstance of its detention and its condition on reputting to sea and shall take care of such of its sick as prefer to remain.

§ 112. **Detention for examination.**—If a vessel which has not had, during the voyage, a case of quarantinable disease, is found in a condition which the health officer deems dangerous to the public health, the vessel and its cargo shall be detained until the case can be considered, but the decision of the health officer shall be rendered within twenty-four hours. Any vessel in an unhealthy state, whether it has sickness on board or not,

shall not be allowed pratique until it shall have been broken out, duly cleansed and ventilated.

§ 113. **Sanitary measures; admission to pratique.**—The health officer may require before admission to pratique of any vessel, baths and other bodily care of the persons on board; washing and other disinfecting means for clothing, the displacement or complete breaking out of cargo on board; subjection to high steam, incineration or submersion of a distance below the surface of the water of infected articles, the destruction of tainted or spoiled food or beverages, the complete ejection of water; the thorough cleansing of the hold; the disinfection of the well; the complete purification of the vessel in all its parts by the use of steam, fumigation, force pumps, rubbing or scraping and if deemed necessary, the sending to quarantine anchorage until disinfection is perfected. Admission to pratique shall be preceded by as many visits to the vessel by the health officer as he may deem necessary.

§ 114. **Disposition of well and sick persons.**—On the arrival of an infected vessel all well persons on board shall have their freedom as soon as possible consistently with the regulations prescribed by or pursuant to law. All sick persons shall be immediately transferred to the hospital set apart for their reception, and the vessel unladen, purified and admitted to pratique as soon as possible. Persons sick with different diseases shall be kept separately.

§ 115. **The yellow flag.**—The health officer shall cause all vessels, warehouses and merchandise in quarantine to be designated by a yellow flag, and shall prohibit communication with or passage within range of the same, except under such restriction as he may designate compatible with the public safety.

§ 116. **Quarantinable merchandise.**—For the purpose of the sanitary measures adopted at quarantine, there shall be three classes of merchandise:

1. Merchandise to be submitted to an obligatory quarantine and purification, comprising personal baggage and dunnage, rags, paper rags, hides, skins, feathers, hair and all other remains of animals, cotton, hemp and wool.

2. Merchandise subject to an optional quarantine, comprising sugar, silks, linen and cattle.

3. Merchandise exempt from quarantine, comprising all merchandise not enumerated in the other two classes.

Merchandise of the first class shall be subjected to such disinfection as the health officer shall direct.

Merchandise of the second class may be admitted to pratique immediately or disinfected according to circumstances, at the option of the health officer, with due regard to the sanitary condition of the port.

Merchandise of the third class shall be declared free and shall be admitted without unnecessary delay.

Merchandise coming from different vessels and places and at different times in quarantine shall be kept separate.

Clothes and dunnage contaminated with infection shall be disinfected or destroyed.

No putrefied animal substance or substances liable to putrefy shall be admitted into the warehouses, but all such substances shall be rendered innocuous or destroyed. All merchandise shall be submitted to such measures of purification as the health officer may deem necessary.

§ 117. **Letters and papers.**—If there has been a quarantinable disease on board the vessel during the voyage, letters and papers thereon shall be subjected to the usual purification, but with such precautions as not



to affect their legibility. Articles of merchandise or other things not subject to purifying measures, in an envelope officially sealed, shall be immediately admitted to pratique without regard to the condition of the vessel. If the envelope is of a substance considered as optional its admission shall be equally optional.

§ 118. **Vaccination.**—All persons coming from or through any foreign port or place, who may arrive at the port of New York shall be liable to an examination by the health officer or his deputies, as regards their protection from small-pox.

If any such person shall refuse to submit to such examination or on such examination shall be found not sufficiently protected from small-pox, or shall refuse to be protected by vaccination, such person together with the person having him in charge if he be a minor, shall be detained in quarantine until he shall have passed the incubative period from the date of the last possible exposure; and the expense of such detention shall be charged by the commissioners of quarantine to the consignees or owners of the vessel having such person on board, and such expenses so incurred shall be a lien upon such vessel.

§ 119. **Diseases subject to quarantine regulations.**—Typhus fever and small-pox patients shall be sent to and supported at such places as are now devoted to their care, or to such other places as may be designated from time to time by the health officer and commissioners of quarantine, and all other quarantinable diseases shall be removed to the emigration hospital for care and treatment. The diseases against which maritime sanitary regulations at the port of New York shall apply are yellow fever, cholera, typhus or ship fever, small-pox, scarlatina, diphtheria, measles, relapsing fever, and

any disease of a contagious, infectious or pestilential character which shall be considered by the health officer dangerous to the public health.

§ 120. **Duty of pilots.**— Every pilot belonging to the port of New York shall use his utmost endeavors to hail every vessel he shall discover entering the port and shall interrogate in reference to all matters to enable the pilot to determine whether, according to the provisions of this article, the vessel is quarantinable. If, from the answers given, it shall appear that the vessel came from a port where any quarantinable disease existed at the time of its departure, or that any case of such disease shall have occurred on board during its passage, the pilot shall immediately direct the master of the vessel to anchor it at the quarantine anchorage in the lower bay. In other cases he shall direct the master to anchor at such points as shall be assigned by the quarantine commissioners for the anchorage of such vessels.

§ 121. **Powers of the boards of health, commissioner of health, and mayors of the cities of New York and Brooklyn.**— The board of health or the mayor of the city of New York, or the commissioner of health or the mayor of the city of Brooklyn, whenever in his or their judgment the public health requires, may order any vessel at the wharves of the city or in their vicinity to the quarantine grounds or some other place of safety, and may require all the persons, articles or things introduced into the city from such vessel to be seized, returned on board thereof or removed to the quarantine or other place of safety. If the master, owner or consignee of such vessel can not be found, or shall neglect or refuse to obey any such order of removal, such board of health, or mayor and commissioners of health, may employ such assistance as may be

necessary to effect such removal at the expense of such master, owner or consignee. Such vessel or person shall not return to the city without the written permission of the board of health, or mayor, or such commissioners of health making the order of removal. Any person employed to remove any such vessel, articles or things pursuant to this section, shall have a lien on such vessel, its tackle, apparel and furniture for his services and expenses in effecting such removal, which may be enforced in the manner prescribed in the lien law for the enforcement of a lien upon vessels.

§ 122. **Payment of expenses of quarantine.**— The expenses incurred and services rendered by the health officer or any of his subordinates or employes in the discharge of any duty imposed by law in relation to vessels, merchandise, baggage, dunnage, persons, or burials of persons under quarantine shall be paid for to the health officer by the master of the vessels for which the expenses shall have been incurred, or the services rendered, or in which such merchandise, baggage, dunnage and persons shall have arrived. Persons conveyed to and from the quarantine establishment in the quarantine steamboat shall pay the health officer for such transportation, unless conveyed for the master of a vessel, in which case the master shall pay for the same.

§ 123. **Lien for services and expenses.**— All such expenses, services and charges shall be a lien on the vessels, merchandise or other property in relation to which they shall have been made, incurred or rendered, and if such master, owner, or consignee shall omit to pay the same within three days after the presentation of such account, the commissioners may proceed to enforce such lien in the manner provided in the lien law for the enforcement of liens upon vessels; or they may

have or maintain an action against such master, owner or consignee to recover the amount of such expenses, services and charges, and such master, owner or consignee shall be deemed indebted to the commissioners in such amount and may recover from any passenger liable to pay the same the amount of any expenses incurred on account of such passenger. The health officer shall have the same remedies as the commissioners to enforce any lien or to recover for any expenses, services or charges which are by law made payable to him if they remain unpaid for three days after payment shall have been demanded by him. The vessel, cargo or other property upon which any lien exists by virtue of any provision of this article, shall be held in quarantine until the amount due for the expenses, services or charges constituting such lien is paid, unless such master, owner or consignee, shall execute to the quarantine commissioners a bond with sufficient sureties to be approved by them, conditioned for the payment thereof within ten days thereafter.

§ 124. **When master of vessel must provide for passenger.**— All passengers on board any vessel under quarantine shall be provided for by the master of the vessel on which they arrive. If the master neglects or refuses to provide for them, or if they have been sent on shore by the health office, they shall be maintained by the quarantine commissioners at the expense of the vessel, her owners or consignees, and the health officer shall not permit the vessel to leave quarantine until such expenses have been paid or secured. The commissioners may maintain an action against such owners or consignees to recover for such expenses, which shall be a lien upon the vessel, to be enforced as other liens thereon by the commissioners.

§ 125. **Appeals.**—Any person aggrieved by any decision or direction of the health officer may appeal therefrom to the quarantine commissioners, who shall constitute a board of appeal, who may affirm, reverse or modify the order or direction appealed from, and whose decision thereon shall be final. Such appeal must be made by serving on the health officer a written notice of appeal within twelve hours, Sundays excepted, or within such further time as shall be allowed by the commissioners after the appellant receives notice of the decision or direction complained of. Within twelve hours after receiving such notice, Sundays excepted, the health officer shall make a written return to the president of the board of appeal, of the facts on which such decision or direction was founded. Upon receipt of such return or if no return is made within the time specified the president shall immediately call a meeting of the board of appeal, and such appeal shall be heard and decided within twenty-four hours thereafter, Sundays excepted. Until the decision of the appeal is made, the decision or direction appealed from shall be suspended, except so far as it may relate to the detention of a vessel, its cargo or passengers.

§ 126. **Policemen.**—The health officer may appoint at least four policemen, whose services shall be paid for by him, and may dismiss them at pleasure and appoint others in their places. Such policemen shall perform patrol or police duty under the direction of the health officer, in connection with the quarantine establishment, and upon the waters of the bay of New York. They shall have all the powers possessed by policemen in the cities of New York and Brooklyn, and any person arrested by any such policeman for violating any law or regulation relating to quarantine in such port, may be taken by

him before any court of criminal jurisdiction or any magistrate or police justice in either of such cities, or in the county of Richmond, and thereupon such court, magistrate or police justice shall have jurisdiction to hear, try and punish the person arrested for the offense committed by him in the same manner and with the same effect, as if the offense had been committed within the territory over which such court, magistrate or police justice has jurisdiction to hear, try and punish for offenses committed within such territory.

§ 127. **Confinement of offenders.**—The health officer upon the application of the master of any vessel under quarantine may confine in any suitable place on shore, any person on board of the vessel charged with the commission of any offense punishable by the laws of this state or of the United States, and who cannot be secured on board of such vessel. Such confinement may continue during the quarantine of such person, or until he shall be proceeded against in due course of law. The expenses of such confinement shall be charged and collected in the same manner as the expenses of providing for passengers, which the master of the vessel is required to pay.

§ 128. **Jurisdiction over offenses and in actions.**—Exclusive jurisdiction of the offenses specified in this act is hereby given to the courts of general and special sessions of the city and county of New York and the counties of Kings and Richmond, and to the police justice's court of the village of Edgewater, in the county of Richmond, but the punishment in the last-named court for offenses shall not exceed ten days' imprisonment, or a fine of one hundred dollars, or by both such fine and imprisonment, and it shall be the duty of the district attorney of the city and county of New York,



and the county of Kings and the county of Richmond, respectively, to prosecute all persons guilty of such offenses in preference to any indictment then in their courts, and for such courts to hear and try the offenses against the provisions of this chapter in preference to all other cases pending before it; and whenever any person shall be convicted on a trial for such offense, the court shall forthwith proceed to pronounce judgment upon him according to the terms prescribed in this chapter. For the purpose of determining all questions of jurisdiction in any civil or criminal action growing out of any act or thing done upon or connected with the West Bank hospital, such hospital shall be deemed to be within the city and county of New York. If any action has been or shall hereafter be commenced or any criminal prosecution instituted against the health officer, or any of his deputies or employes, or against the quarantine commissioners, or any of them, or against any person engaged in performing any duty or rendering any service in any matter or thing connected with the quarantine establishment, or any part thereof, before any court or officer within the county of Richmond, or when such county shall be the place of trial named in the complaint in any such action, the defendant therein may apply to any justice of the supreme court for an order directing that such action shall be tried either in the city and county of New York or in the county of Kings, and such justice shall thereupon make an order removing such action from the county of Richmond to the city and county of New York or the county of Kings. If the action is pending in the supreme court, the order shall designate in which of the other counties herein named the trial shall be had; if the action is pending in the county court, such order shall remove the action

into the supreme court, and designate one of such other counties as the county wherein it shall be tried. If the action shall have been commenced before a justice of the peace, the order shall designate the justice of the peace or court before whom the action shall be tried in the county to which it is removed as herein required ; and if it is a criminal action, the order shall direct to which officer or court the complaint or indictment shall be sent for trial, and shall provide for giving bail in such form and amount as such justice shall deem proper. The court or officer to which any action shall be transferred, pursuant to this section, shall proceed to the trial thereof in the same manner and with the same effect as if the action had been commenced before such court or officer and the cause of action had arisen in the county to which the action shall have been removed. An action may be brought by and in the name of the quarantine commissioners to recover any penalty, forfeiture, sum of money or other cause of action incurred or required to be paid or authorized to be brought pursuant to any provision of this article or the preceding article.

§ 129. **Special port warden.**—There shall continue to be a special port warden in and for the port of New York, appointed by the governor, by and with the advice and consent of the senate, whose term of office shall be two years. He shall act as warden in regard to vessels under or subject to quarantine, but not in regard to vessels while stopping at quarantine for the purpose of visitation only by the health officer, but not detained. He shall have all the powers of a port warden of the port of New York with reference to vessels or merchandise under or subject to quarantine, but he shall be subject to such regulations as the health officer may impose,

for the protection of the public health. He shall receive for each survey or examination made by him the sum of five dollars, and shall make returns to the warden's office in the city of New York of each survey made by him, within twenty-four hours after it shall be made. He may appoint a deputy, who, during his absence or inability to serve, may perform all his duties and exercise all his powers. No other port warden shall be appointed under quarantine.

§ 130. **Fees and compensation of health officers.**—The health officer shall receive fees for his services at not exceeding the following rates, namely: For inspection of any vessel from a foreign port, five dollars. For inspection of every vessel from a domestic port, south of Cape Henlopen, between May first and November first in each year, steamers three dollars; other vessels, one dollar. For medical inspection of every one hundred or fraction of one hundred steerage passengers upon transatlantic steamers, two dollars. For each special permit issued for the discharge of cargo, portion of cargo or baggage brought as freight, twenty-five cents. For sanitary inspection of every vessel after the discharge of cargo or ballast, ten dollars. For fumigation and disinfection of every vessel from an infected port, or of such vessel as in the judgment of the health officer shall require fumigation and disinfection by reason of exposure to infection or contagion, fifty dollars, or such sum not more than fifty dollars or less than five dollars, as may in the judgment of the health officer be deemed reasonable, during a single quarantine. For boarding every vessel and giving a permit between sunset and sunrise, at the request of the owner, consignee or master of the vessel, when such pratique can be given without danger to the public health, five dollars. The health

officer shall board such vessels and give a permit between sunset and sunrise, at the request of the owner, consignee or master of the vessel, when such pratique can be given without danger to the public health. For vaccination of persons on vessels, on board of which small-pox has developed during the voyage, each twenty-five cents. But no charge shall be made for the vaccination of any person who shall have been successfully vaccinated by the medical officer of the ship. He shall report annually to the board of quarantine commissioners all fees received by him. He shall pay all the salaries and wages of the deputy health officers and such bargemen, nurses and stewards as may be necessary for the performance of the duties imposed upon him by law for the carrying on of the quarantine establishment, except the salaries of the commissioners of quarantine, and shall pay the current expenses of running a steamboat for the transportation of persons to and from the establishment, for visitation and for burying the dead, and the salaries of the officers and employes appointed by the quarantine commissioners or by the president of the board. The health officer shall be entitled to receive a total compensation of twelve thousand five hundred dollars per annum, and in case the aggregate amount of such fees remaining in the hands of the health officer at the end of each year, during which he shall continue in office, after payment by him of the salaries, wages and expenses which he is required by law to pay, shall be less than the sum of twelve thousand five hundred dollars, the quarantine commissioners shall ascertain by proper proofs, to be approved by the attorney-general and filed with the comptroller, the amount of such deficiency, and shall pay the same to such health officer out of any unex-

pended moneys in their hands. In case the aggregate amount of fees exceeds the sum of twelve thousand five hundred dollars per annum, and the expenses to be paid out of the same specified in this section, the surplus shall be used for the purchase of necessary books and microscopes and other necessary appliances, as the health officer may require, or for the preservation and repair of the structures belonging to the quarantine establishment. The commissioners shall keep an account of all moneys received or disbursed by them under this section. This section shall not affect the liability of masters or owners of vessels, passengers or other persons to pay for such services, labor or work as they are respectively required to pay or discharge by law.

Am'd by ch. 465 of 1896. Took effect May 9, 1896.

§ 131. **Annual report.**— The health officer shall make a report to the quarantine commissioners annually on or before January first, containing a statement of the general condition of the quarantine establishment, the statistics of the establishment in detail, and such other information and suggestions in regard to it as he may deem advisable.

## ARTICLE VIII.

### PRACTICE OF MEDICINE.

#### SECTION 140. Qualifications.

141. State boards of medical examiners.
142. Name; certificate of appointment; oath; powers.
143. Expenses.
144. Meetings; officers; quorum.
145. Admission to examination.
146. Questions.
147. Examinations and reports.
148. Licenses.
149. Registry.

**SECTION 150.** Registry in another county.

- 151. Certificate presumptive evidence; unauthorized registration and license prohibited.
- 152. Construction of this article.
- 153. Penalties and their collection.

**Definitions.** — As used in this article.

University means university of the state of New York.

Regents means board of regents of the university of the state of New York.

Board means a board of medical examiners of the state of New York.

Medical examiner means a member of a board of medical examiners of the state of New York.

Medical school means any medical school, college, or department of a university, registered by the regents as maintaining a proper medical standard and as legally incorporated.

Medicine means medicine and surgery.

Physician means physician and surgeon.

§ 140. **Qualifications.** — No person shall practice medicine after September first, eighteen hundred and ninety-one, unless previously registered and legally authorized, or unless licensed by the regents and registered as required by this article; nor shall any person practice medicine who has ever been convicted of a felony by any court, or whose authority to practice is suspended or revoked by the regents on recommendation of a state board.

§ 141. **State boards of medical examiners.** — There shall continue to be three separate state boards of medical examiners of seven members each, each of whom shall hold office for three years from August first of the year in which appointed. One board shall represent the medical society of the state of New York, one the homeopathic medical society of the state of New



York and one the eclectic medical society of the state of New York. Each of these three societies shall at each annual meeting nominate twice the number of examiners to be appointed in that year on the board representing it. The names of such nominees, shall be annually transmitted under seal by the president and secretary prior to May first to the regents, who shall, prior to August first appoint from such lists the examiners required to fill any vacancies that will occur from expiration of term on August first. Any other vacancy, however, occurring, shall likewise be filled by the regents for the unexpired term. Each nominee before appointment, shall furnish to the regents proof that he has received the degree of doctor of medicine from some registered medical school and that he has legally practised medicine in this state for at least five years. If no nominees are legally before them from a society the regents may appoint from members in good standing of such society without restriction. The regents may remove any examiner for misconduct, incapacity or neglect of duty.

**§ 142. Certificate of appointment; oath; powers.**— Every medical examiner shall receive a certificate of appointment from the regents and before beginning his term of office shall file with the secretary of state the constitutional oath of office. Each board, or any committee thereof, may take testimony and proofs concerning all matters within its jurisdiction. Each board may, subject to the regents' approval, make all by-laws and rules not inconsistent with law needed in performing its duties; but no by-law or rule by which more than a majority vote is required for any specified action by the board shall be amended, suspended or repealed by a smaller vote than that required for action thereunder.

§ 143. **Expenses.** — From the fees provided by this article, the regents may pay all proper expenses incurred by its provisions except compensation to medical examiners; and any surplus at the end of any academic year shall be apportioned among the three boards pro rata according to the number of candidates whose answer papers have been marked by each.

§ 144. **Officers ; meetings ; quorum ; committees.** — Each board shall annually elect from its members a president and a secretary for the academic year, and shall hold one or more meetings each year pursuant to call of the regents, who may also call joint meetings of the three boards or of their officers. At any meeting a majority shall constitute a quorum; but questions prepared by the boards may be grouped and edited, or answer papers of candidates may be examined and marked by committees duly authorized by the boards and by the regents.

§ 145. **Admission to examination.** — The regents shall admit to examination any candidate who pays a fee of twenty-five dollars and submits satisfactory evidence, verified by oath, if required, that he

1. Is more than twenty-one years of age ;
2. Is of good moral character ;
3. Has the general education required preliminary to receiving the degree of bachelor or doctor of medicine in this state ;
4. Has studied medicine not less than four full school years of at least nine months each, including four satisfactory courses of at least six months each, in four different calendar years in a medical school registered as

maintaining at the time, a satisfactory standard. New York medical schools and New York medical students shall not be discriminated against by the registration of any medical school out of the state, whose minimum graduation standard is less than that fixed by statute for New York medical schools. The regents may, in their discretion, accept as the equivalent for any part of the third and fourth requirement, evidence of five or more years' reputable practice, provided that such substitution be specified in the license.

5. Has either received the degree of bachelor or doctor of medicine from some registered medical school, or a diploma or license conferring full right to practice medicine in some foreign country. The degree of bachelor or doctor of medicine shall not be conferred in this state before the candidate has filed with the institution conferring it the certificate of the regents that before beginning the first annual medical course counted toward the degree unless matriculated conditionally as hereinafter specified (three years before the date of the degree), he had either graduated from a registered college or satisfactorily completed a full course in a registered academy or high school; or had a preliminary education considered and accepted by the regents as fully equivalent; or held a regents' medical student certificate, granted before this act took effect; or had passed regents' examinations as hereinafter provided. A medical school may matriculate conditionally a student deficient in not more than one year's academic work or twelve counts of the preliminary education requirement, provided the name and deficiency of each student so matriculated be filed at the regents' office

within three months after matriculation, and that the deficiency be made up before the student begins the second annual medical course counted toward the degree. Students who had matriculated in a New York medical school before June fifth, eighteen hundred and ninety, and students who had matriculated in a New York medical school before May thirteen, eighteen hundred and ninety-five, as having entered before June fifth, eighteen hundred and ninety on the prescribed three years study of medicine, shall be exempt from this preliminary education requirement.

A medical student certificate may be earned without notice to the regents of the conditional matriculation either before the student begins the second annual medical course counted toward the degree or two years before the date of the degree for matriculants in any registered medical school, in the four cases following :

1. For matriculants prior to May ninth, eighteen hundred and ninety-three, for any twenty counts, allowing ten for the preliminaries, not including reading and writing ;

2. For matriculants prior to May thirteen, eighteen hundred and ninety-five, for arithmetic, elementary English, geography, spelling, United States history, English composition and physics, or any fifty counts, allowing fourteen for the preliminaries ;

3. For matriculants prior to January first, eighteen hundred and ninety-six, for any twelve academic counts ;

4. For matriculants prior to January first, eighteen hundred and ninety-seven, for any twenty-four academic counts ;

But all matriculants, after January first, eighteen hundred and ninety-seven, must secure forty-eight academic counts, or their full equivalent, before beginning the first annual medical course counted toward the degree, unless admitted conditionally, as hereinbefore specified when the deficiency must be made up before the student begins the second annual medical course counted toward the degree.

§ 2. This act shall take effect immediately, except that the increase in the required course of medical study from three to four years shall take effect January first, eighteen hundred and ninety-eight, and shall not apply to students who matriculated before that date and who received the degree of doctor of medicine before January first, nineteen hundred and two.

Am'd by ch. 111 of 1896.

§ 146. **Questions.** — Each board shall submit to the regents, as required, lists of suitable questions for thorough examination in anatomy, physiology, and hygiene, chemistry, surgery, obstetrics, pathology and diagnosis, and therapeutics including practice and materia medica. From these lists the regents shall prepare question papers for all these subjects, which at any examination shall be the same for all candidates, except that in therapeutics, practice and materia medica all the questions submitted to any candidate shall be chosen from those prepared by the board selected by that candidate, and shall be in harmony with the tenets of that

school as determined by its state board of medical examiners.

§ 147. **Examinations and reports.**—Examinations for license shall be given in at least four convenient places in this state and at least four times annually, in accordance with the regents' rules, and shall be exclusively in writing and in English. Each examination shall be conducted by a regents' examiner who shall not be one of the medical examiners. At the close of each examination the regents' examiner in charge shall deliver the questions and answer papers to the board selected by each candidate, or to its duly authorized committee, and such board, without unnecessary delay, shall examine and mark the answers and transmit to the regents an official report, signed by its president and secretary, stating the standing of each candidate in each branch, his general average and whether the board recommends that a license be granted. Such report shall include the questions and answers and shall be filed in the public records of the university. If a candidate fails on first examination, he may after not less than six months' further study, have a second examination without fee. If the failure is from illness or other cause satisfactory to the regents they may waive the required six months' study.

§ 148. **Licenses.**—On receiving from a state board an official report that an applicant has successfully passed the examinations and is recommended for license, the regents shall issue to him, if in their judgment he is duly qualified therefor, a license to practice medicine. Every license shall be issued by the university under seal and shall be signed by each acting medical examiner of the board selected and by the officer of the university who approved the credential which admitted the candi-



date to examination, and shall state that the licensee has given satisfactory evidence of fitness as to age, character, preliminary and medical education and all other matters required by law, and that after full examination he has been found properly qualified to practice. Applicants examined and licensed by other state examining boards registered by the regents as maintaining standards not lower than those provided by this article and applicants who matriculated in a New York state medical school before June 5, 1890, and who received the degree M. D., from a registered medical school before August 1, 1895, may without further examination, on payment of ten dollars to the regents and on submitting such evidence as they may require, receive from them an indorsement of their licenses or diplomas conferring all rights and privileges of a regents' license issued after examination.

If any person, whose registration is not legal because of some error, misunderstanding or unintentional omission, shall submit satisfactory proof that he had all requirements prescribed by law at the time of his imperfect registration and was entitled to be legally registered, he may on unanimous recommendation of a state board of medical examiners receive from the regents under seal a certificate of the facts which may be registered by any county clerk and shall make valid the previous imperfect registration.

Before any license is issued it shall be numbered and recorded in a book kept in the regents' office, and its number shall be noted in the license. This record shall be open to public inspection, and in all legal proceedings shall have the same weight as evidence that is given to a record of conveyance of land.

§ 149. **Registry.**— Every license to practice medi-

cine shall, before the licensee begins practice thereunder, be registered in a book kept in the clerk's office of the county where such practice is to be carried on, with name, residence, place and date of birth, and source, number and date of his license to practice. Before registering, each licensee shall file, to be kept in a bound volume in the county clerk's office an affidavit of the above facts, and also that he is the person named in such license, and had, before receiving the same, complied with all requisites as to attendance, terms and amount of study and examinations required by law and the rules of the university as preliminary to the conferment thereof; that no money was paid for such license, except the regular fees paid by all applicants therefor; that no fraud, misrepresentations or mistake in any material regard was employed by any one or occurred in order that such license should be conferred. Every license, or if lost a copy thereof legally certified so as to be admissible as evidence, or a duly attested transcript of the record of its conferment shall, before registering, be exhibited to the county clerk, who, only in case it was issued or indorsed as a license under seal by the regents, shall indorse or stamp on it the date and his name preceded by the words: "Registered as authority to practice medicine in the clerk's office of . . . county." The clerk shall thereupon give to every physician so registered a transcript of the entries in the register with a certificate under seal that he has filed the prescribed affidavit. The licensee shall pay to the county clerk a total fee of one dollar for registration, affidavit and certificate.

§ 150. **Registry in another county.**—A practicing physician having registered a lawful authority to practice medicine in one county, and removing such prac-

tice or part thereof to another county, or regularly engaging in practice or opening an office in another county, shall show or send by registered mail to the clerk of such other county, his certificate of registration. If such certificate clearly shows that the original registration was of an authority issued under seal by the regents, or if the certificate itself is indorsed by the regents as entitled to registration, the clerk shall thereupon register the applicant in the latter county, on receipt of a fee of twenty-five cents, and shall stamp or indorse on such certificate, the date and his name preceded by the words, "Registered also in .... county," and return the certificate to the applicant.

§ 151. **Certificate presumptive evidence ; unauthorized registration and license prohibited.**— Every unrevoked certificate and indorsement of registry, made as provided in this article, shall be presumptive evidence in all courts and places, that the person named therein is legally registered. Hereafter no person shall register any authority to practice medicine unless it has been issued or indorsed as a license by the regents. No such registration shall be valid unless the authority registered constituted at the time of registration, a license under the laws of the state then in force. No diploma or license conferred on a person not actually in attendance at the lectures, instruction and examinations of the school conferring the same, or not possessed at the time of its conferment, of the requirements then demanded of medical students in this state as a condition of their being licensed so to practice, and no registration not in accordance with this article shall be lawful authority to practice medicine, nor shall the degree of doctor of medicine be conferred *causa honoris* or *ad*

eundum nor if previously conferred shall it be a qualification for such practice.

§ 152. **Construction of this article.**—This article shall not be construed to affect commissioned medical officers serving in the United States army, navy or marine hospital service, while so commissioned; or any one while actually serving on the resident medical staff of any legally incorporated hospital; or any legally registered dentist exclusively engaged in practicing dentistry; or any manufacturer of artificial eyes, limbs or orthopedic instruments or trusses in fitting such instruments on persons in need thereof; or any lawfully qualified physician in other states or countries meeting legally registered physicians in this state in consultation; or any physician residing on a border of a neighboring state and duly authorized under the laws thereof to practice medicine therein, whose practice extends into this state, and who does not open an office or appoint a place to meet patients or receive calls within this state; or any physician duly registered in one county called to attend isolated cases in another county, but not residing or habitually practicing therein. This article shall be construed to repeal all acts or parts of acts authorizing conferment of any degree in medicine, *causa honoris* or *ad eundum*, or otherwise than on students duly graduated after satisfactory completion of a preliminary and medical course not less than that required by this article, as a condition of license.

§ 153. **Penalties and their collection.**—Any person who, not being then lawfully authorized to practice medicine within this state and so registered according to law, shall practice medicine within this state without lawful registration or in violation of any provision of this article; and any person who shall buy, sell or

fraudulently obtain any medical diploma, license, record, or registration, or who shall aid or abet such buying, selling or fraudulently obtaining, or who shall practice medicine under cover of any medical diploma, license, record, or registration illegally obtained, or signed, or issued unlawfully or under fraudulent representations or mistake of fact in a material regard, or who, after conviction of a felony, shall attempt to practice medicine, or shall so practice, and any person who shall append the letters M. D. to his or her name, or shall assume or advertise the title of doctor (or any title which shall show or tend to show that the person assuming or advertising the same is a practitioner of any of the branches of medicine), in such a manner as to convey the impression that he or she is a legal practitioner of medicine, or of any of its branches, without having legally received the medical degree, or without having received a license which constituted at the time an authority to practice medicine under the laws of this state then in force, shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than two hundred fifty dollars, or imprisonment for six months for the first offense, and on conviction of any subsequent offense, by a fine of not more than five hundred dollars or imprisonment for not less than one year, or by both fine and imprisonment. Any person who shall practice medicine under a false or assumed name, or who shall falsely personate another practitioner of a like or different name, shall be guilty of a felony. When any prosecution under this article is made on the complaint of any incorporated medical society of the state, or any county medical society of such county entitled to representation in a state society, the fines when collected shall be paid to the society making the

complaint, and any excess of the amount of fines so paid over the expense incurred by the said society in enforcing the medical laws of this state shall be paid at the end of the year to the county treasurer.

Am'd by ch. 898 of 1895. In effect April 25, 1895.

## ARTICLE IX.

### PRACTICE OF DENTISTRY.

#### SECTION 160. Licentiates.

161. State board of dental examiners.
162. Examinations, licenses, registration, fees, revocation of licenses.
163. Construction of this article.
164. Penalties.

**Definitions as used in this article.**—The terms university, regents and physician have respectively the meaning defined in article eight of this chapter. Board, where not otherwise limited, means the state board of dental examiners. Registered medical or dental school means a medical or dental school, college or department of a university, registered by the regents as maintaining a proper educational standard and legally incorporated. Examiner, where not otherwise qualified, means a member of the board.

Am'd by ch. 297 of 1896. In effect April 17, 1896.

§ 160. **Licentiates.** — Only the following persons shall be deemed licensed to practice dentistry:

1. Those duly licensed and registered as dentists in this state prior to the first day of August, eighteen hundred and ninety-five, pursuant to the laws in force at the time of their license and registration.

2. Those duly licensed and registered after the first



day of August, eighteen hundred and ninety-five, pursuant to the provisions of this chapter.

Am'd by ch. 626 of 1895. In effect Aug. 1, 1895.

§ 161. **State board of dental examiners.**—On the first day of August, eighteen hundred and ninety-five, the state board of censors of the dental society of the state of New York, as the latter body shall be composed at the date of such appointment, shall become the state board of dental examiners. The existing division of said censors into four classes and their terms of office shall remain the same for the said board, except that said terms shall expire on the thirty-first day of July in each year. Before the day when the official terms of the members of any of said classes shall expire, the regents shall appoint their successors, to serve for the term of four years from said day. Such appointments shall be made from nominations in number twice the number of the outgoing class made by such society to the regents prior to the third Tuesday in May of each year. In default of such nominations, the regents shall appoint such examiners from the legally qualified dentists in the state belonging to the state dental society. The regents, in the same manner, shall also fill vacancies in the board that may occur. All nominations and appointments shall be so made that every vacancy in the board shall be filled by a resident of the same judicial district in which the last incumbent of the office resided. The board shall convene at the call of the secretary of the regents within not less than two weeks after appointment and organize by electing to serve for one year, a president and secretary. These officers shall be elected annually. No person shall be appointed an examiner unless he has received a dental degree

from a body lawfully entitled to confer the same, and in good standing at the time of its conferment, and has been engaged within the state during not less than five years prior to his appointment in the actual and lawful practice of dentistry. Nor shall any person connected with a dental college as professor or instructor be eligible to such appointment. Cause being shown before them the regents may remove an examiner from office upon proven charges of inefficiency, incompetency, immorality or professional misconduct.

Am'd by ch. 297 of 1896. In effect April 17, 1896.

§ 162. **Examinations.** — The regents shall admit to examination any candidate who pays the fee herein prescribed and submits satisfactory evidence, verified by oath if required, that he: First, is more than twenty-one years of age; second, is of good moral character; third, has the general education required in all cases after August first, eighteen hundred and ninety-five, preliminary to receiving the degree of bachelor or doctor of medicine in this state; and either has been graduated in course, with a dental degree from a registered dental school, or else, having been graduated in course from a registered medical school with the degree of doctor of medicine, has pursued thereafter a course of special study of dentistry for at least one year in a registered dental school, or holds a diploma or license conferring full right to practice dentistry in some foreign country and granted by some registered authority. Any member of the board may inquire of any applicant for examination concerning his qualifications and may take testimony of any one in regard thereto, under oath, which he is hereby empowered to administer. No degree in dentistry shall be conferred in this state till the

candidate has satisfactorily completed a course of not less than three years in an institution registered by the regents of the university as maintaining proper dental standards, nor before the candidate has filed with the institution conferring it the certificate of the regents that three years before the date of the degree he has either been graduated from a registered college or satisfactorily completed a full course in a registered academy or high school; or had a preliminary education considered and accepted by the regents as fully equivalent; or had passed regents' examinations representing, for degrees conferred in eighteen hundred and ninety-eight, one year of academic work, for degrees conferred in eighteen hundred and ninety-nine, two years of academic work, and for degrees conferred in nineteen hundred a full high school course. The regents may, in their discretion, accept as the equivalent for any part of the third or fourth requirement evidence of five or more years reputable practice, provided that such substitution be specified in the license.

**Degrees.** — A person having lawfully received a dental degree in course from a registered dental school, or the degree of doctor of medicine from a registered medical school, and having thereafter lawfully practiced dentistry for the term of five years, may apply to the regents for the degree of master of dental surgery, which degree the regents may confer after examination of the applicant by the board under such rules and regulations as the regents and the board shall frame. No degree in dentistry shall be conferred in this state on any candidate who has not before matriculation in the institution conferring it, filed the certificate of the regents that he has had a satisfactory preliminary edu-

cation, which for those matriculating after January first, eighteen hundred and ninety-seven, shall be not less than a full high school course.

**Licenses.**—On certification by the board of dental examiners that a candidate has successfully passed the examination and is competent to practice dentistry, the regents shall issue to him their license so to practice pursuant to the rules established by them. Upon the recommendation of the board, the regents may also, without the examination hereinbefore provided for, issue their license to any applicant therefor who shall furnish proof satisfactory to them that he has been duly licensed to practice dentistry in any state or country after full compliance with the requirements of its dental laws, and has been thereafter lawfully and reputably engaged in such practice for five years next preceding his application; provided, that his preliminary and professional education shall have been not less than that required in this state. The regents may also license any applicant on the certificate of the board that after due investigation or examination it finds his education and professional attainments and experience of not less than five years in actual practice to be together fully equal to the requirements for license in this state. Every license so issued shall state upon its face the grounds upon which it is granted and the applicant may be required to furnish his proofs upon affidavit.

**Registration.**—Every person practicing dentistry in this state and not lawfully registered before this act takes effect, shall register in the office of the clerk of the county where his place of business is located, in a book kept by the clerk for such purpose, his name, age, office and post office address, date and number of

his license to practice dentistry and the date of such registration, which registration he shall be entitled to make only upon showing to the county clerk his license or a duly authenticated copy thereof, and making an affidavit stating name, age, birthplace, the number of his license and the date of its issue; that he is the identical person named in the license; that before receiving the same he complied with all the preliminary requirements of this statute and the rules of the regents and board as to the terms and the amount of study and examination; that no money, other than the fees prescribed by this statute and said rules, was paid directly or indirectly for such license, and that no fraud, misrepresentation or mistake in a material regard was employed or occurred in order that such license should be conferred. The county clerk shall preserve such affidavit in a bound volume and shall issue to every licensee duly registering and making such affidavit, a certificate of registration in his county, which shall include a transcript of the registration. Such transcript and the license may be offered as presumptive evidence in all courts of the facts stated therein. The county clerk's fee for taking such registration and affidavit and issuing such certificate, shall be one dollar. A practicing dentist having registered a lawful authority to practice dentistry in one county of the state and removing such practice or part thereof to another county, or regularly engaging in practice or opening an office in another county, shall show or send by registered mail to the clerk of such other county his certificate or registration. If such certificate clearly shows that the original registration was of an authority issued under seal by the regents, or if the certificate itself is endorsed by the regents as entitled to registration, the clerk

shall thereupon register the applicant in the latter count, on receipt of a fee of twenty-five cents, and shall stamp or indorse on such certificate, the date and his name, preceded by the words, "registered also in ..... county," and return the certificate to the applicant.

**Examination fees.** — Every applicant for license to practice dentistry shall pay a fee of not more than twenty-five dollars. From the fees provided by this article the regents may pay all proper expenses incurred by them under its provisions, and any surplus at the end of any academic year shall be paid to the society nominating the examiners to defray its expenses incurred under the law.

**Revocation of licenses.** — If any practitioner of dentistry be charged under oath before the board with unprofessional or immoral conduct, or with gross ignorance, or inefficiency in his profession, they shall notify him to appear before them at an appointed time and place, with counsel, if he so desires, to answer said charges, furnishing to him a copy thereof. Upon the report of the board that the accused has been guilty of unprofessional or immoral conduct, or that he is grossly ignorant or inefficient in his profession, the regents may suspend the person so charged from the practice of dentistry for a limited season, or may revoke his license. Upon the revocation of any license, the fact shall be noted upon the records of the regents and the license shall be marked as canceled, of the date of its revocation. Upon presentation of a certificate of such cancellation to the clerk of any county wherein the licentiate may be registered, said clerk shall note the date of the cancellation on the register of dentists and cancel the



registration. A conviction of felony shall forfeit a license to practice dentistry, and upon presentation to the regents or a county clerk of a certified copy of a court record showing that a practitioner of dentistry has been convicted of felony, that fact shall be noted on the record of license and clerk's register, and the license and registration shall be marked canceled. Any person who, after conviction of a felony shall practice dentistry in this state, shall be subject to all the penalties prescribed for the unlicensed practice of dentistry, providing that if such conviction be subsequently reversed upon appeal and the accused acquitted or discharged, his license shall become again operative from the date of such acquittal or discharge.

Am'd by ch. 297 of 1896. In effect April 17, 1896.

**§ 163. Construction of this article.**—This article shall not be construed to prohibit an unlicensed person from performing merely mechanical work upon inert matter in a dental office or laboratory, or the student of a licentiate from assisting his preceptor in dental operations while in the presence and under the personal supervision of the instructor, or a duly licensed physician from treating diseases of the mouth or performing operations in oral surgery. But nothing in the provisions of this article shall be construed to permit the performance of dental operations by any unlicensed person under cover of the name of a registered practitioner. Any student of dentistry whose certificate of study under private preceptorship shall have been duly filed with the secretary of the State Dental Society at the time this act takes effect pursuant to the provisions of law then in force, may present himself for examination to the board under the same conditions as those

under which he might have presented himself for examination before the censors of the State Dental Society under the laws in force when his certificate was filed; providing, however, that he shall file a notice with the regents on or before the first day of September, eighteen hundred and ninety-five, that he purposes availing himself of this exemption.

Am'd by ch. 626 of 1895 In effect Aug. 1, 1895.

§ 164. **Penalties.**—(a) A person who, in any county of this state, practices or holds himself out to the public as practicing dentistry, not being at the time of said practice or holding out a dentist licensed to practice as such in this state and registered in the office of the clerk of such county pursuant to the general laws regulating the practice of dentistry, is guilty of a misdemeanor, and punishable upon conviction of a first offense by a fine of not less than fifty dollars, and upon conviction of a subsequent offense by a fine of not less than one hundred dollars, or by imprisonment for not less than two months, or by both such fine and imprisonment. Any violation of this section by a person therefore convicted under the then existing laws of this state of practicing dentistry without license or registration shall be included in the term a subsequent offense.

(b) A person shall be deemed guilty of a misdemeanor, and upon every conviction thereof shall be punished by a fine of not less than five hundred dollars or by imprisonment for not less than six months, or by both fine and imprisonment, who

(1) Shall sell or barter or offer to sell or barter any diploma or document conferring or purporting to confer any dental degree or any certificate or transcript made or purporting to be made pursuant to the laws regulating the license and registration of dentist; or,

(2) Shall purchase or procure by barter any such diploma, certificate or transcript with intent that the same shall be used as evidence of the holder's qualification to practice dentistry, or in fraud of the laws regulating such practice ; or,

(3) Shall, with fraudulent intent, alter in a material regard any such diploma, certificate or transcript ; or,

(4) Shall use or attempt to use any such diploma, certificate or transcript which has been purchased, fraudulently issued, counterfeited or materially altered either as a license or color of license to practice dentistry or in order to procure registration as a dentist ; or,

(5) Shall practice dentistry under a false or assumed name ; or,

(6) Shall assume the degree of bachelor of dental surgery, doctor of dental surgery, or master of dental surgery, or shall append the letters B. D. S., D. D. S., M. D. S., to his name, not having had duly conferred upon him by diploma from some college, school or board of examiners legally empowered to confer the same, the right to assume said titles ; or shall assume any title or append any letters to his name with the intent to represent falsely that he has received a medical or dental degree or license.

(c) Any person who in any affidavit or examination required of an applicant for examination, license or registration under the laws regulating the practice of dentistry shall make willfully a false statement in a material regard shall be guilty of perjury, and punishable upon conviction thereof by imprisonment not exceeding ten years.

(d) All fines, penalties or forfeitures imposed or collected for violations of the foregoing provisions relating

to dental practice and the corresponding sections of the penal code must be paid to the State Dental Society. Said society may prefer a complaint for violation of the law regulating the practice of dentistry before any court, tribunal or magistrate having jurisdiction, and may, by its officers, counsel and agents aid in presenting the law and facts before such court, tribunal or magistrate in any proceedings taken.

Am'd by ch. 626 of 1895. In effect Aug. 1, 1895.

**Laws repealed.** — Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is repealed, but it is expressly provided that any license or registration duly obtained in this state prior to the first day of August, eighteen hundred and ninety-five, without fraud and in full compliance with provisions of the laws in force at the time of its procurement shall not be affected by the repeal of those laws, but shall continue to be as valid as it was at the time of its procurement.

#### SCHEDULE OF LAWS REPEALED.

Laws.	Chapter.	Section.
1868.....	152.....	All of section seven after and including the words "whose duty it shall be," and all of sections eight, nine and ten.
1870.....	331.....	All.
1879.....	540.....	All.
1881.....	376.....	All.
1889.....	337.....	All.
1892.....	528.....	All.

Am'd by ch. 626 of 1895. In effect Aug. 1, 1895.

## ARTICLE X.\*

**Veterinary Medicine and Surgery.**

- SECTION 170. Definitions.  
171. Qualifications to practice.  
172. State board of veterinary medical examiners.  
173. Certificate of appointment; oath; powers.  
174. Expenses.  
175. Officers; meetings; quorum; committee.  
176. Admission to examination.  
177. Questions.  
178. Examinations and reports.  
179. Licenses.  
180. Registry.  
181. Registry in another county.  
182. Certificate presumptive evidence; unauthorized registration and license prohibited.  
183. Construction of this article.  
184. Penalties and their collection.

§ 170. **Definitions.**—As used in this article :

1. University means university of the state of New York.

2. Regents mean board of regents of the university of the state of New York.

3. Board means a board of veterinary medical examiners of the state of New York.

4. Veterinary medical examiner means a member of a board of veterinary medical examiners of the state of New York.

5. Veterinary school means any veterinary school, college or department of a university, registered by the regents as maintaining a proper veterinary medical standard and as legally incorporated.

6. Veterinary medicine means veterinary medicine and surgery, or any branch thereof.

7. Veterinarian means veterinary physician and surgeon.

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\* This article was amended by ch. 869 of 1895. In effect June 12, 1895.

§ 171. **Qualifications for practice.** — No person shall practice veterinary medicine after July first, eighteen hundred and ninety-five, unless previously registered and legally authorized, unless licensed by the regents and registered as required by this article ; nor shall any person practice veterinary medicine who has ever been convicted of a felony by any court, or whose authority to practice is suspended or revoked by the regents on recommendation of a state board. Any graduate of a veterinary school, who received his degree prior to July first, eighteen hundred and ninety-five, and has practiced veterinary medicine in some county in New York state, but who failed to register in the veterinary medical register in the county in which he so practiced, may, on unanimous recommendation of the state board of veterinary medical examiners, receive from the regents a certificate which shall entitle him to register as a veterinary practitioner in the county of his residence or practice at any time within two months after the passage of this act

Am'd by ch. 840 of 1896 In effect May 22, 1896.

§ 172. **State board of veterinary medical examiners.** — There shall be a board of veterinary medical examiners of five members, each of whom shall hold office for five years from August one of the year in which appointed. The New York state veterinary medical society shall at each annual meeting nominate twice the number of examiners to be appointed that year on the board. The names of such nominees shall be annually transmitted under seal by the president and secretary prior to May one, to the regents who shall, prior to August one, appoint from such lists the examiners required to fill any vacancies that will occur from expiration of term on July thirty-first. Any other



vacancy, however occurring, shall likewise be filled by the regents for the unexpired term. Each nominee before appointment, shall furnish to the regents proof that he has received a degree in the veterinary medicine from registered veterinary medical school and that he has legally practiced veterinary medicine in this state for at least five years. If no nominees are legally before them from the society, the regents may appoint from members in good standing in the veterinary profession without restriction. The regents may remove any examiner for misconduct, incapacity or neglect of duty.

**§ 173. Certificate of appointment ; oath ; powers.**

—Every veterinary medical examiner shall receive a certificate of appointment from the regents, and before beginning his term of office shall file with the secretary of state the constitutional oath of office. The board, or any committee thereof, may take testimony and proofs concerning all matters within its jurisdiction. The board may, subject to the regents' approval, make all by-laws and rules not inconsistent with law needed in performing its duties, but no by-laws or rules by which more than a majority vote is required for any specified action by the board shall be amended, suspended or repealed by a smaller vote than that required for the action thereunder.

**§ 174. Expenses.**—From the fees provided by this article the regents may pay all proper expenses incurred by its provisions, except compensation to veterinary medical examiners, and any surplus at the end of the academic year shall be apportioned among the members of the board pro rata according to the number of candidates whose answer papers have been marked by each.

§ 175. **Officers; meetings; quorum; committees.**—The board shall annually elect from its members a president and secretary for the academic year, and shall hold one or more meetings each year pursuant to the call of the regents. At any meeting a majority shall constitute a quorum; but questions prepared by the board may be grouped and edited, or answer papers of candidates may be examined and marked by committees duly authorized by the board and by the regents.

§ 176. **Admission to examination.**—The regents shall admit to examination any candidate who pays a fee of ten dollars and submits satisfactory evidence, verified by oath if required, that he (first) is more than twenty-one years of age; (second) is of good, moral character; (third) has the general education required in all cases after July first, eighteen hundred and ninety-seven, preliminary to receiving a degree in veterinary medicine; (fourth) has studied veterinary medicine not less than three full years, including three satisfactory courses, in three different academic years, in the veterinary medical school registered as maintaining at the time a satisfactory standard; (fifth) has received a degree as veterinarian from some registered veterinary medical school. The degree in veterinary medicine shall not be conferred in this state before the candidate has filed with the institution conferring it, the certificate of the regents that three years before the date of the degree, or before or during his first year of veterinary medical study in this state, he has either graduated from a registered college or satisfactorily completed an academic course in a registered academy or high school; or has a preliminary education considered and accepted by the regents as fully equivalent; or has passed

regents' examinations equivalent to the minimum requirement in such preliminary education for candidates for medical or dental degrees in this state. Students who had matriculated in a veterinary medical school before October first, eighteen hundred and ninety-five, shall be exempted from this preliminary educational requirement, provided the degree be conferred before July first, eighteen hundred and ninety-eight. The regents may, in their discretion, accept as the equivalent for any part of the third and fourth requirement, evidence of five or more years' reputable practice in veterinary medicine, provided that such substitution be specified in the license.

§ 177. **Questions.**—Each member of the board shall submit to the regents, as required, lists of suitable questions for thorough examination in comparative anatomy, physiology and hygiene, in chemistry and in veterinary surgery, obstetrics, pathology and diagnosis and therapeutics, including practice and materia medica. From these lists the regents shall prepare question papers for all these subjects, which at any examinations shall be the same for all candidates.

§ 178. **Examinations and reports.**—Examination for license shall be given in at least four convenient places in this state and at least four times annually, in accordance with the regents' rules, and shall be exclusively in writing and in English. Each examination shall be conducted by a regent examiner, who shall not be one of the veterinary medical examiners. At the close of each examination the regents' examiner in charge shall deliver the questions and answer papers to the board, or to its duly authorized committee, and such board, without unnecessary delay, shall examine and

mark the answers and transmit to the regents an official report, signed by its president and secretary, stating the standing of each candidate in each branch, his general average and whether the board recommends that a license be granted. Such report shall include the questions and answers and shall be filed in the public records of the university. If a candidate fails on his first examination, he may, after not less than six months' further study, have a second examination without fee. If the failure is from illness or other cause satisfactory to the regents, they may waive the required six months' study.

§ 179. **Licenses.**—On receiving from the state board an official report that an applicant has successfully passed the examination and is recommended for license, the regents shall issue to him, if in their judgment he is duly qualified therefor, a license to practice veterinary medicine. Every license shall be issued by the university under seal and shall be signed by each acting veterinary medical examiner of the board and by the officer of the university who approved the credential which admitted the candidate to examination, and shall state that the licensee has given satisfactory evidence of fitness as to age, character, preliminary and veterinary medical education and all other matters required by law, and that after full examination he has been found properly qualified to practice. Applicants examined and licensed before July first, eighteen hundred and ninety-seven, by other state examining boards registered by the regents as maintaining standards not lower than those provided by this article, and applicants who matriculate in a New York state veterinary medical school before July first, eighteen hundred and ninety-six, and who receive the veterinary degree from a

registered veterinary medical school before July first, eighteen hundred and ninety-seven, may without further examination, on payment of ten dollars to the regents, and on submitting such evidences as they may require, receive from them an indorsement of their license or diplomas conferring all rights and privileges of a regents' license issued after examination. If any person whose registration is not legal because of some error, misunderstanding or unintentional omission, shall submit satisfactory proof that he had all requirements prescribed by law at the time of his imperfect registration and was entitled to be legally registered, he may, on unanimous recommendation of the state board of veterinary medical examiners, receive from the regents under seal a certificate of the facts, which may be registered by any county clerk and shall make valid the previous imperfect registration. Before any license is issued it shall be numbered and recorded in a book kept in the regents' office and its number shall be noted in the license. This record shall be open to public inspection, and in all legal proceedings shall have the same weight as evidence that is given to a record of conveyance of land.

§ 179a. **Registry.**—Every license to practice veterinary medicine shall, before the licensee begins practice thereunder, be registered in a book to be known as the “veterinary medical register,” which shall be provided by and kept in the clerk's office of the county where such practice is to be carried on, with name, residence, place and date of birth, and source, number and date of its license to practice. Before registering, each licensee shall file, to be kept in a bound volume in the county clerk's office, an affidavit of the above facts, and also that he is the person named in such license, and had,

before receiving the same, complied with all requisites as to attendance, terms and amount of study and examination required by law and the rules of the university as preliminary to the conferment thereof, and no money was paid for such license, except the regular fees, paid by all applicants therefor; that no fraud, misrepresentation or mistake in any material regard was employed by any one or incurred in order that such license should be conferred. Every license, or if lost, a copy thereof, legally certified so as to be admissible as evidence, or a duly attested transcript of the record of its conferment, shall, before registering, be exhibited to the county clerk, who, only in case it was issued or indorsed as a license under seal by the regents, shall indorse or stamp on it the date and his name, preceded by the words: "Registered as authority to practice veterinary medicine, in the clerk's office of ..... county." The clerk shall thereupon give to every veterinarian so registered a transcript of the entries in the register, with a certificate under seal that he has filed the prescribed affidavit. The licensee shall pay to the county clerk as a total fee of one dollar for registration, affidavit and certificate.

§ 179*b*. **Registration in another county.**—A practicing veterinarian having registered a lawful authority to practice veterinary medicine in one county, and removing such practice or part thereof to another county, or regularly engaging in practice or opening an office in another county, shall show or send by registered mail to the clerk of such other county, his certificate of registration. If such certificate clearly shows that the original registration was of an authority issued under seal by the regents, or if the certificate itself is indorsed by the regents as entitled to registration, the clerk shall thereupon register the applicant in the latter county, on receipt of a fee of twenty-five cents, and shall stamp or indorse on such certificate the date and his name, preceded by the words: "Registered also in ..... county" and return the certificate to the applicant.



**§ 179c. Certificate and presumptive evidence; unauthorized registration and license prohibited.**

—Every unrevoked certificate and indorsement of registry, made as provided in this article, shall be presumptive evidence in all courts and places that the person named therein is legally registered. Hereafter no person shall register any authority to practice veterinary medicine unless it has been issued or indorsed as a license by the regents. No diploma or license conferred on a person not actually in attendance at the lectures, instructions and examinations of the school conferring the same, or not possessed at the time of its conferment of the requirements then demanded of veterinary medical students in this state as a condition of their being licensed so to practice, and no registration not in accordance with this article shall be lawful authority to practice veterinary medicine, nor shall the degree of doctor of veterinary medicine be conferred *causa honoris* or *ad eundum*, nor if previously conferred shall it be a qualification for such practice.

**§ 179d. Construction of this article.** — This article shall not be construed to affect commissioned veterinary medical officers serving in the United States army, or in the United States bureau of animal industry while so commissioned; nor any person for giving gratuitous services in case of emergency; or any lawfully qualified veterinarian in other states or countries meeting legally registered veterinarians in this state in consultation; or any veterinarian residing on a border of a neighboring state and duly authorized under the laws thereof to practice veterinarian medicine therein, whose practice extends into this state, and who does not open an office or appoint a place to meet patients or receive calls within this state; or any veterinarian duly registered in one county called to attend isolated cases in another county, but not residing or habitually practicing therein. This article shall be construed to repeal all acts or parts of acts authorizing conferment of any degree in veterinary medicine, *causa honoris* or *ad eundum*, or otherwise, than on students duly graduated after satisfactory com-

pletion of a preliminary and veterinary medical course, not less than that required by this article, as a condition of license.

§ 179*e*. **Penalties and their collection.**—Every person who shall practice veterinary medicine within this state without lawful registration or in violation of any provision of this article shall forfeit to the county wherein such persons shall so practice, or in which any violation shall be committed, fifty dollars for every such violation, and for every day of such unlawful practice, and any incorporated veterinary medical society of the state or any county veterinary medical society of such county entitled to representation in a state society, may bring an action in the name of such county for the collection of such penalties, and the expense incurred by such society in such prosecution, including necessary counsel fees, may be retained by such society out of the penalties so collected, and the residue, if any, shall be paid into the county treasury. Any person who shall practice veterinary medicine under a false or assumed name or who shall falsely personate another practitioner of a like or different name, shall be guilty of a felony; and any person guilty of violating any of the other provisions of this act, not otherwise specifically punished herein, or who shall buy, sell or fraudulently obtain any veterinary medical diploma, license, record or registration, or who shall aid or abet such buying, selling or fraudulently obtaining, or who shall practice veterinary medicine under the cover of a diploma, or license illegally obtained, or signed or issued unlawfully or under fraudulent representation, or mistake of fact in material regard, or who, after conviction of a felony, shall attempt to practice veterinary medicine, and any person who shall, without having been authorized so to do legally, append any veterinary title to his or her name, or shall assume or advertise any veterinary title in such a manner as to convey the impression that he is a lawful practitioner of veterinary medicine or any of its branches, shall be guilty of a misdemeanor, and on

conviction thereof shall be punished by a fine of not less than two hundred and fifty dollars or imprisonment for six months for the first offense, and on conviction of a subsequent offense by a fine of not less than five hundred dollars or imprisonment for not less than one year, or by both fine and imprisonment.

## ARTICLE XI.

### PHARMACY.

- SECTION 180. State board; appointment.  
181. Oaths; meetings; officers; by-laws.  
182. Kinds of licenses.  
183. Duties of board.  
184. Who are entitled to license.  
185. Additional requirements.  
186. Fee; posting and revocation of license.  
187. Application of article limited.  
188. Apprentices.  
189. Exemption of New York, Kings and Erie counties.  
190. Penalties; expenses.

§ 180. **State board ; appointment.**—There shall continue to be a state board of pharmacy for the state, excepting the counties of New York, Kings and Erie, of five members, each holding office for a term of five years from the first Tuesday in September of the year when such term begins. The New York state pharmaceutical association shall at each annual meeting nominate five pharmacists, residents of the state but not of the said counties, from which number the governor shall fill the vacancy annually occurring in such board by expiration of the term of one of the incumbents. If a vacancy occurs from any other cause than expiration of term, the governor shall fill the vacancy from the list of names so

nominated at the annual meeting of such association next preceding the happening of the vacancy.

§ 181. **Oaths; meetings; officers; by-laws.**— Each member of such board shall, before entering upon the discharge of his duties, take and subscribe the constitutional oath of office and file the same in the office of the secretary of state. The board shall meet annually on the first Tuesday of September at twelve o'clock, noon, and elect a president, secretary and treasurer, who shall hold office for one year. It shall hold other meetings at least once in three months. The board may make by-laws and regulations for the examination of applicants for licenses and the granting of licenses to applicants.

§ 182. **Kinds of license.**— There shall be two grades of license established, that of pharmacist, which confers on the licentiate the privilege of carrying on the practice of pharmacy, either on his own account, as proprietor, or for some other person, and that of assistant pharmacist, which entitles the holder to retail medicines and poisons, but not to compound physicians' prescriptions in the absence of the licensed pharmacist.

§ 183. **Duties of board.**— Such board of pharmacy shall :

1. Examine all applicants for license under this article, and grant licenses to such as may be entitled thereto.
2. Keep a record of all pharmacists and assistant pharmacists licensed or authorized by it.
3. Investigate all complaints of disregard of, non-compliance with, or violation of any provision of this article, and bring all such cases, and all cases of offenses against the provisions of the Penal Code relating to pharmacy, to the notice of the proper prosecuting officer.
4. Render annually to the governor and to the state pharmaceutical association at its annual meeting, a full

statement of all its receipts and disbursements during the preceding year.

§ 184. **Who are entitled to license.**—Any person who has had four years' experience in the practice of pharmacy, or any person who holds a certificate of registration from any board of pharmacy legally created under the laws of this state, is entitled to license as a pharmacist, and any person who has had two years' experience in the practice of pharmacy is entitled to a license as an assistant pharmacist on complying with the regulations of the state board of pharmacy and other requirements as provided in this article. Any person who, on the twenty-fourth day of May, eighteen hundred and eighty-four, was entitled to be licensed as a pharmacist, but who failed within ninety days thereafter to apply to the state board for a license, may, at any time after this chapter takes effect, on eight days' notice to the secretary of such board, apply to the supreme court, at a special term, in the district where such applicant resides, for an order directing such board to issue such license; and such court may grant such order, on proof of good cause for the neglect to so apply, and such board shall issue such license on receipt of a certified copy of such order served upon the secretary of such board.

Am'd by ch. 253 of 1896. Took effect April 15, 1896.

§ 185. **Additional requirements.**—No person shall be entitled to a license as a pharmacist or assistant pharmacist from any board of pharmacy created under the laws of this state, unless he furnish proof to such board by his own affidavit or otherwise, in addition to the other requirements of law relating to the granting of licenses by such board, that he is a resident of the city, county or district for which such board is created, or if a non-resident, that he intends to practice in such city, county or district; that he has not applied for a license to or been examined by any board of pharmacy of the state and been refused a license within six months immediately preceding.

Am'd by ch. 896 of 1895. In effect June 4, 1895.



§ 186. **Fee ; posting and revocation of license.**—No license shall be granted by such state board, under this article, unless the applicant pays to such board a fee of ten dollars for a license as pharmacist, after examination by this board, or five dollars for a license or certificate of registration as pharmacist, after examination by any other legal board of this state, and three dollars for a license as assistant pharmacist. Every person to whom a license is granted by such board shall post it and keep it posted in a conspicuous part of the pharmacy in which such person does business. No license granted by such board shall be revoked except for just and sufficient cause. No person shall hereafter practice as a pharmacist unless a license has been granted to such person by the state board of pharmacy.

Am'd by ch. 896 of 1895. In effect June 4, 1895.

§ 187. **Application of article limited.**—This article shall not apply to the business of a practitioner of medicine who is not the proprietor of a store for the retailing of drugs, medicines or poisons and shall not prevent practitioners of medicine from supplying their patients with such articles as they may deem proper, nor shall it apply to persons who sell medicines or poisons at wholesale or to the sale of Paris green, white hellebore and other poisons for destroying insects or any substance for use in the arts, or to the manufacture and sale of proprietary medicines, or to the sale of the usual domestic remedies by retail dealers in the rural districts. The term “usual domestic remedies,” here employed, means medicines, a knowledge of the properties of which and dose has been acquired from common use and includes only such remedies as may be safely employed without the advice of a physician such as epsom salts, rochelle salts, salts of tartar, borax, sulphur, magnesia, camphor,



aloes, myrrh, guaiac, arnica, rhubarb, senna, squills, ipecac and preparations of the same, castor oil, olive oil, origanum, spike, amber, wintergreen, peppermint, wormwood, glycerine, spirits of nitre and other like remedies, but does not include opium, morphine, laudanum, strychnine, arsenic, belladonna, aconite and other poisons requiring knowledge and pharmaceutical skill to safely dispense, unless they are sold in original packages, or packages bearing the label of a licensed pharmacist. The term "rural districts" here employed, shall apply only to small villages and country districts having no store where pharmacy is practiced. The term "practice of pharmacy" when used in this article means the compounding of prescriptions or of any United States pharmacopœial preparation, or of any drug or poison, to be used as medicines, or the retailing of any drug or poison, except as provided for in this section.

§ 188. **Apprentices.**—This article shall not be construed to prohibit the employment in any pharmacy, of apprentices for the purpose of being instructed in the practice of pharmacy; but such apprentices shall not be permitted to prepare and dispense physicians' prescriptions, or to sell or furnish medicines or poisons except in the presence of and under the supervision of a licensed pharmacist.

§ 189. **Exemption of New York, Kings and Erie counties.**—Except the provisions relating to the proof to be furnished to any board of pharmacy by an applicant for a license, this article shall not apply to the counties of New York, Kings and Erie, but a license as a pharmacist granted any person after the examination by any board of pharmacy, legally created under the laws of this state, shall entitle such person to a license or certificate of registration from any other

board of pharmacy so created, upon presenting to such board his license and complying with the formal requirements of the laws.

§ 190. **Penalties; expenses.**— Any person violating any provision of this article shall forfeit to the county where the violation occurs the sum of fifty dollars for every such violation, which may be sued for and recovered in the name of the county by the state board of pharmacy, which may retain out of all penalties collected by it the costs and expenses of such collection, including counsel fees necessarily paid, and the residue, not exceeding one-half of such penalties shall be paid into the treasury of the county. The expenses of the state board shall be paid out of the fees in this article provided, and the moiety of the penalties collected and retained by it.

## ARTICLE XII.

### MISCELLANEOUS PROVISIONS.

SECTION 200. Vaccination of school children.

201. Appointment of physician.

202. Preservation of life at bathing places.

203. Examination and quarantine of children admitted to institutions for orphan, destitute or vagrant children or juvenile delinquents.

204. Monthly examination of inmates and reports.

205. Beds; ventilation.

206. Baby farming.

207. Cadavers.

208. Prescriptions of opium and morphine.

209. Laws repealed.

210. When to take effect.

§ 200. **Vaccination of school children.**— No child or person not vaccinated shall be admitted or received into any of the public schools of the state, and the

trustees or other officers having the charge, management or control of such schools shall cause this provision of law to be enforced. They may adopt a resolution excluding such children and persons not vaccinated from such school until vaccinated, and when any such resolution has been adopted, they shall give at least ten days' notice thereof, by posting copies of the same in at least two public and conspicuous places within the limits of the school government, and shall announce therein that due provision has been made, specifying it, for the vaccination of any child or person of suitable age desiring to attend the school, and whose parents or guardians are unable to procure vaccination for them, or who are, by reason of poverty, exempted from taxation in such district.

§ 201. **Appointment of physician.**—Such trustees or board may appoint a competent physician and fix his compensation, who shall ascertain the number of children or persons in a school district, or in a subdivision of a city school government, of suitable age to attend the common schools, who have not been vaccinated and furnish such trustees or board a list of their names. Every such physician shall provide himself with good and reliable vaccine virus with which to vaccinate such children or persons as such trustees or board shall direct, and give certificates of vaccination when required, which shall be evidence that the child or person to whom given has been vaccinated. The expenses incurred in carrying into effect the provisions of this and the preceding section, shall be deemed a part of the expense of maintaining such school, and shall be levied and collected in the same manner as other school expenses. The trustees of the several school districts of the state shall include in their annual report the num-

ber of vaccinated and unvaccinated children of school age in their respective districts.

§ 202. **Preservation of life at bathing places.** — Every keeper or proprietor of a hotel or boarding-house, and every other person having for use a bathing-house upon any beach or shore of the ocean, for the accommodation of his guests, or of other persons for pay, shall provide for the safety of such bathers two lines of sound, serviceable and strong manilla or hemp rope, not less than one inch in diameter, anchored at some point above high water, at the same distance apart as the line of bathing-houses, or space fronting on such beach occupied by him is in width; and from the two points at which such life lines are so anchored, such line shall be made to extend as far into the surf as bathing is ordinarily safe and free from danger of drowning to persons not expert in swimming, and at such points of safety such lines shall be anchored and buoyed. From the two points of such lines so extended, anchored and buoyed, a third line shall be extended, connecting the two extremities, and buoyed at such points as to be principally above the surface of the water, thereby inclosing a space within such lines and the beach within which bathing is believed to be safe. Every such keeper or proprietor or other such person shall cause to be painted and put up in some prominent place upon the beach, near such bathing-houses, the following words: "Bathing beyond the lines dangerous." Such lines so placed, anchored and buoyed, and such notice so put up, shall continue and be so maintained by every such keeper, proprietor or other person during the entire season of surf bathing. The owner of a bathing-house shall not be subject to the provisions of this section where it is used, occupied or maintained by a lessee for

hire, but such lessee shall be deemed the keeper or proprietor thereof. Every person violating any provision of this section shall forfeit to the county where the violation occurs the sum of twenty-five dollars for every such violation, and for each day that any such violation is repeated or continued.

§ 203. **Examination and quarantine of children admitted to institutions for orphans, destitute or vagrant children or juvenile delinquents.** — Every institution in this state, incorporated for the express purpose of receiving or caring for orphan, vagrant or destitute children or juvenile delinquents, except hospitals, shall have attached thereto a regular physician of its selection duly licensed under the laws of the state and in good professional standing, whose name and address shall be kept posted conspicuously within such institution near its main entrance. The words "juvenile delinquents" here used shall include all children whose commitment to an institution is authorized by the Penal Code. The officer of every such institution upon receiving a child therein, by commitment or otherwise, shall, before admitting it to contact with the other inmates, cause it to be examined by such physician, and a written certificate to be given by him, stating whether the child has diphtheria, scarlet fever, measles, whooping cough or any other contagious or infectious disease, especially of the eyes and skin, which might be communicated to other inmates and specifying the physical and mental condition of the child, the presence of any indication of hereditary or other constitutional disease, and any deformity or abnormal condition found upon the examination to exist. No child shall be so admitted until such certificate shall have been furnished, which shall be filed with the commitment or other papers

on record in the case, by the officers of the institution, who shall, on receiving such child, place it in strict quarantine thereafter from the other inmates, until discharged from such quarantine by such physician, who shall thereupon indorse upon the certificate the length of quarantine and the date of discharge therefrom.

§ 204. **Monthly examination of inmates and reports.**—Such physician shall at least once a month thoroughly examine and inspect the entire institution, and report in writing, in such form as may be approved by the state board of health, to the board of managers or directors of the institution, and to the local board of the district or place where the institution is situated, its condition, especially as to its plumbing, sinks, water-closets, urinals, privies, dormitories, the physical condition of the children, the existence of any contagious or infectious disease, particularly of the eyes or skin, their food, clothing and cleanliness, and whether the officers of the institution have provided proper and sufficient nurses, orderlies, and other attendants of proper capacity to attend to such children, to secure to them due and proper care and attention as to their personal cleanliness and health, with such recommendations for the improvement thereof as he may deem proper. Such boards of health shall immediately investigate any complaint against the management of the institution or of the existence of anything therein dangerous to life or health, and, if proven to be well founded, shall cause the evil to be remedied without delay.

§ 205. **Beds; ventilation.**—The beds in every dormitory in such institution shall be separated by a passage-way of not less than two feet in width; and so arranged that under each the air shall freely circulate and there shall be adequate ventilation of each bed, and such dor-



mitory shall be furnished with such means of ventilation as the local board of health shall prescribe. In every dormitory six hundred cubic feet of air space shall be provided and allowed for each bed or occupant, and no more beds or occupants shall be permitted than are thus provided for, unless free and adequate means of ventilation exist approved by the local board of health, and a special permit in writing therefor be granted by such board, specifying the number of beds or cubic air space which shall, under special circumstances, be allowed, which permit shall be kept conspicuously posted in such dormitory. The physician of the institution shall immediately notify in writing the local board of health and the board of managers or directors of the institution of any violation of any provision of this section.

§ 206. **Baby farming.**—No person shall receive or board more than two infants under three years of age in the same place at the same time, unless accompanied by their parents, relatives or some person entitled to their custody, or unless within two days after the reception of every such infant beyond the first two, a license shall be duly issued by the mayor or board of health of the city, or by the board of health of the village or town where such infant is to be received or boarded, specifying the name and age of the child, and the name and place of residence of the person so undertaking its care, and authorizing such person to receive and board the same. The officers of every incorporated society for the prevention of cruelty to children may at all reasonable times enter and inspect the premises where such infants are so received, boarded or kept, and they shall see that the provisions of this section are duly enforced. This section shall not apply to corporations incorporated under the laws of this state for the purpose of receiving

and caring for foundlings or abandoned or homeless infants.

§ 207*a*. **Cadavers.**—The governors, keepers, wardens, managers, or persons having lawful control and management of any hospital, prison, almshouse, asylum, morgue or other receptacle for corpses not interred in the counties of Onondaga, Oswego, Madison and Cortland, and the warden of the Auburn state prison, in the county of Cayuga, and every undertaker or other person in the counties of Onondaga, Oswego, Madison and Cortland, having in his lawful possession any such corpses for keeping or burial, may deliver, and they are hereby required to deliver, under the conditions specified in this section, every such corpse in their or his possession, charge, custody or control, not placed therein by relatives or friends in the usual manner for keeping or burial, to the medical colleges or schools in said counties of Onondaga, Oswego, Madison and Cortland, authorized by law to confer either the degree of doctor of medicine, or the degree of doctor of dental surgery and to all other colleges or schools incorporated under the laws of the state in said counties for the purpose of teaching medicine, anatomy or surgery, and to any university in either of said counties having a medical preparatory course of instruction, and the professors and teachers in every such college, school or university may receive such corpses and use the same for the purposes of medical, anatomical or surgical science and study. No such corpse shall be so delivered if within forty-eight hours after death, it is desired for interment by

relatives, or by friends, who will bear the expenses of its interment; nor shall a corpse be so delivered or received of any person known to have relatives, whose places of residence are also known, without the assent of such relatives; and such relatives shall be deemed to have assented thereto, unless they shall claim such corpse for the interment within twenty-four hours after being notified of the death of such person. If the remains of any person so delivered or received shall be subsequently claimed for interment by any relative or by any friend who will bear the expense of such interment, they shall be given up to such relative or friend for interment. Any person claiming any corpse or remains for interment, as provided in this section, may be required by the persons, college, school, university or officer or agent thereof, in whose possession, charge or custody the same may be, to present an affidavit stating that he is such relative or friend, and the facts and circumstances upon which the claim that he is such relative or friend is based, and, if a friend, that he will bear the expense of such interment, the expense of which affidavit shall be paid by the person requiring it. If such person shall refuse to make such affidavit, such corpse or remains shall not be delivered to him, but he shall forfeit his claim and right to the same. Any such college, school or university in either of said counties desiring to avail itself of the provisions of this section shall notify said governors, keepers, wardens, managers, undertakers and other persons hereinbefore specified in the county where said college, school or university is situated, or in any of said adjoining coun-

ties, in which no such college, school or university is situated of such desire, and thereafter it shall be obligatory upon such governors, keepers, wardens, managers, undertakers and other persons hereinbefore specified, to immediately notify the proper officer or officers of said college, school or university, whenever there is any corpse in their possession, charge, custody or control, which may be delivered to a medical college, school or university under this section, and to deliver the same to such college, school or university. It shall be the duty of such governors, keepers, wardens, managers and persons having lawful control and management of the institutions hereinbefore mentioned, after being duly notified by any college, school or university of its desire to avail itself of the provisions of this section, to keep, if requested so to do by such college, school or university, and if provided by such medical college, school or university with a suitable book for that purpose, a true and correct record of any and all corpses thereafter coming into their possession, charge, custody or control, and of the disposition made of the same, giving the name of such corpses, if known; the dates of death and burial, if known; the names and places of residence, if known, of the relatives of such corpses; the names of the persons by whom such corpses are claimed for interment and the names of the colleges, schools, universities, or persons, to whom the same are delivered, and the dates of such deliveries; which said books shall be open to the inspection of the officers and agents of such college, school or university furnishing the same and to the officers and agents of any other

medical college, school or university entitled to receive corpses from the same county. If two or more colleges, schools or universities located in any one of said counties are entitled to receive corpses from the same or from said adjoining counties, they shall receive the same in proportion to the number of matriculated students in each college. The professors and teachers in every college, school or university receiving any corpse under this section, shall dispose of the remains thereof, after they have served the purposes of medical, anatomical or surgical science and study, in accordance with the regulations of the local board of health where the college, school or university is situated. Any person neglecting to comply with or violating any provision of this section, shall forfeit and pay a penalty of twenty-five dollars for each and every such noncompliance or violation thereof, and it shall be the duty of the health officer, or person performing his duties, in the places where said medical colleges, schools or universities are situated, whenever he shall have knowledge or information of any noncompliance with, or violation of, any provision, or provisions, of this section, to sue for and recover, in his name of office, the aforesaid penalty, and to pay over the amount so recovered, less the cost and expenses of the action, to the health board of said locality, for its use and benefit.

Am'd by ch. 302 of 1896. Took effect April 17, 1896.

§ 208. **Prescription of opium, morphine, cocaine and chloral.**—No pharmacist, druggist, apothecary or other person shall refill more than once, prescriptions containing opium or morphine or preparations of either of them or cocaine or chloral, in which the dose of opium shall exceed one-quarter of a grain, or of morphine one-twentieth of a grain, or of cocaine one-half of a grain, or of chloral ten grains, except upon the written order of a physician.

§ 209. **Laws repealed.**—Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is repealed.

§ 210. **When to take effect.**—This chapter shall take effect immediately.

#### SCHEDULE OF LAWS REPEALED.

Revised Statutes.		Sections.
Part 1, chapter 14.....		All.
Laws of	Chapter	Sections.
1854.....	123.....	All.
1860.....	438.....	All.
1863.....	358.....	All.
1864.....	398.....	All.
1865.....	592.....	All.
1865.....	613.....	All.
1866.....	154.....	All.
1866.....	751.....	All.



Laws of	Chapter	Sections.
1867.....	543.....	All.
1870.....	525.....	All.
1872.....	746.....	All.
1879.....	540.....	All.
1877.. ..	427.....	All.
1880.....	322.....	All.
1881.....	376.....	All.
1881.....	407.....	All.
1881.....	550.....	1.
1881.....	679.....	All.
1882.....	308.....	All.
1883.....	40.....	All.
1883.....	291.....	All.
1883.....	443.....	All.
1884.....	272.....	All.
1884.....	361.....	All.
1885.....	176.....	All.
1885.....	270.....	All.
1885.....	360.....	All.
1885.....	382.....	All.
1885.....	399.....	1, 2.
1885.....	534.....	All.
1885.....	543.....	All.
1886.....	313.....	All.
1886.....	329.....	All.
1886.....	467.....	All.
1886.....	477.....	All.
1886.....	633.....	All.
1887.....	166.. ..	All.
1887.....	280.....	All.
1887.....	603.....	All.
1887.....	636.....	All.
1887.....	647.....	All.
1887.. ..	676... ..	All.
1888.....	52.....	All.
1888.....	53.....	All.
1888.....	77.....	All.

Laws of	Chapter	Sections.
1888.....	146.....	All.
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1890.....	100.....	All.
1890.. ..	419.....	All.
1890.....	468.....	All.
1890.....	500.....	All.
1890.....	507.....	All.
1892.....	486.....	All.
1892.....	487.....	All.
1892.....	528.....	All except 5.
1892.....	655.....	All.

§ 941. **Ordinances, et cetera, of cities, villages, et cetera.**—An act, ordinance, resolution, by-law, rule or proceeding of the common council of a city, or of the board of trustees of an incorporated village, or of a local board of health of a city, town or incorporated village or of a board of supervisors, within the state, may be read in evidence, either from a copy thereof, certified by the city clerk, village clerk, clerk of the common council, clerk or secretary of the local board of health, or clerk of the board of supervisors; or from a volume printed by authority of the common council of the city, or the board of trustees of the village or the local board of health of the city, town or village, or the board of supervisors.

Am'd by ch. 203 of 1894. In effect Sept. 1, 1894.

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